MAY 18, 1957

THE

SOLICITORS' JOURNAL

VOLUME 101

NUMBER 20

CURRENT TOPICS

Contracts and the Post Office

IN finding that Lord Mansfield's decision in *Whitfield* v. *Lord Le Despencer* (1778), 2 Cowp. 754, that the Post Office enters into no contract with a person posting packages is still applicable to-day, the Court of Appeal, in *Triefus* v. *Post Office* (*The Times*, 11th May), rejected the arguments that the incidence of highway robbery and the fewer occasions for the Post Office to enter into contracts made conditions so different then that another rule should apply to-day. In his judgment Lord Mansfield said: "The Postmaster has no hire, enters into no contract, carries on no merchandise or commerce, but the Post Office is a branch of revenue and a branch of police created by Act of Parliament." All this, the court held, is as true to-day as it was then. That case, like *Triefus* v. *Post Office*, arose through a loss caused by a dishonest postal servant. In that case the loss was of a banknote. In *Triefus'* case the loss was of two postal packets received for registration and transmission overseas, and valued at about £21,000. Lord Justice HODSON also showed from the Post Office Act, 1908, and the Warrant of 1948, that Parliament, and those who made the regulations, proceeded on the footing that no damages for the loss of the contents of a postal packet arising out of contract could be recovered. Finally, he said, while the effect of the Crown Proceedings Act, 1947, s. 9 (2), was to put a member of the public in a stronger position than he had previously been in in respect of the loss of or damage to an inland postal package, the subsection excluded overseas postal packets.

Attracting Business Unfairly

IN their findings after the hearing of a charge against a firm of solicitors for a breach of r. 1 of the Solicitors' Practice Rules, 1936, in doing a thing which could reasonably be regarded as calculated to attract business unfairly, the Disciplinary Committee of The Law Society, according to the May issue of the *Law Society's Gazette*, said: "It can hardly be doubted that an offer on the part of the vendor that he will pay the stamp duty for the purchaser if he instructs a particular solicitor in the transaction is calculated to attract business unfairly to that solicitor." In evidence the vendor company's sales manager said that the offer to pay the stamp duty if the purchaser instructed the company's solicitors had not been put to the solicitors, but was made in an attempt to encourage the purchaser to instruct those solicitors, so

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that matters could be expedited. No sum was included in a completion statement for stamp duty and the solicitors confirmed in a letter to another purchaser that there would be a saving in stamp duty. The Committee ordered that a fine be imposed on the partners of the firm concerned.

Accuracy in Advocacy

AT the Annual Provincial Meeting of the Local Government Legal Society at Bradford on 6th April, 1957, the stipendiary magistrate for Leeds, Mr. RALPH CLEWORTH, Q.C., said that the most important qualities required in an instructing solicitor were: (1) Complete accuracy. (2) Modesty. Mr. Cleworth gave a number of examples of the drawbacks of endeavouring to "gild the lily." (3) Imagination and foresight. This enabled one to forsee how the case would "go over" in court. No counsel was allowed to consult with a witness of fact, although he could consult his lay client or an expert witness. This meant that the whole responsibility for the accuracy of factual evidence rested with the instructing solicitor. As to the conduct of cases in court, Mr. Cleworth emphasised the importance of orderliness and accuracy. In the U.S.A., he said, counsel were held personally responsible for any failure to prove facts stated in opening a case. It would be interesting to know what form this personal responsibility takes and whether it entails a liability to a civil action for damages or to committal. In this country personal responsibility is limited to the possibility that in an extreme case a solicitor can be ordered personally to pay the costs. The Bar is exempt from such a possibility, and so it should be, for otherwise there might be a great shortage of barristers. Experienced members of both branches of the profession, however, know that the quality which makes for more solid success than all the brilliant persuasion and cross-examination in the world is indeed accuracy.

The Privy Council and the Church

THE BISHOP OF CHESTER, commenting on 7th May on the fact that the final court in Church matters was now the Judicial Committee of the Privy Council, said that it consisted of the most learned and skilled judges of the land. But they were laymen. From time to time, he said, this body had taken upon itself to interpret the formularies of the Church and to pronounce judgment on what was and what was not the faith of the Church. It was true that its judgments had not been in favour of any one ecclesiastical party . . . The Church must make up her mind about the kind of court she wanted. Then she must enter into negotiation with the State. It was essential that some acceptable solution should be found, for it was highly unsatisfactory that the supreme court of appeal in ecclesiastical cases should be one that did not possess the universal confidence of churchpeople."

The Law Society: Associate Membership

THE Council of The Law Society have now made, pursuant to their supplemental charter of 1954, regulations governing associate membership of The Law Society. They are published in full in the May issue of the *Law Society's Gazette*. Associate membership is open to articled clerks, and lasts until admission, or until the end of one year after the expiry of articles, whichever is the earlier. A candidate for associate membership must be proposed by a member other than an honorary or associate member. The annual subscription for associate members whose addresses are within ten miles from the City of London General Post Office is £1 1s. and in all other cases it is 10s. 6d. Associate members will receive copies of the *Gazette*. For the present they are to be entitled to use the Reading Room at the Society's Hall between 5 p.m. and 7.30 p.m., the Library between 9 a.m. and 11 a.m., and 3 p.m. and 5 p.m., the Bar during evening opening hours, and the Strangers' Room for tea, from 3.30 p.m. onwards, with the right to introduce guests. Proposal forms are to be available from the Society's office by the last week in May, and associate membership will be introduced from 1st June, 1957.

Probation: Fiftieth Anniversary

THE HOME SECRETARY addressed a meeting of probation officers on 4th May, arranged by the National Association of Probation Officers to celebrate the fiftieth anniversary of the introduction in Parliament of the Probation of Offenders Bill. He said that one could not read the Report of the Departmental Committee over which LORD SAMUEL presided in 1909, to enquire into the working of the Probation of Offenders Act, 1907, without being immensely impressed by the thought and foresight that committee brought to the task. They set the pattern for the development of the probation service up to the present day. Perhaps their recommendation of greatest significance on this occasion was that a probation officers' society should be formed. He congratulated the National Association of Probation Officers on what it had made of the society recommended by Lord Samuel's Committee forty-seven years ago. The other recommendations, too, of Lord Samuel's Committee had stood the test of time; in particular their commendation of the practice then already being followed by some justices of asking probation officers to inquire into the character and surroundings of persons before the court. The success with which the probation service had developed that art had been brought home to us only last month by LORD DENNING in his references in the Court of Appeal (in a case where divorced parents were contesting the custody of a child) to the report prepared for him by a probation officer assigned for duty as court welfare officer in the Divorce Division of the High Court. Commendation from such a quarter was an encouragement and stimulus not only to the officer concerned, but to the whole probation service who, in the course of a year, prepared over 80,000 reports at the request of the courts and for their assistance. Lord Samuel, who also addressed the meeting, said that the probation officers must not become —and they had not become—yet one more type of bureaucrat. The probation officer must regard himself, not as an official, with what was technically called a "case-load" of forty or fifty cases, but just as one human being trying to help another. He added that the courts, tired of the mere negations of cases for separation or divorce, wished to offer a friendly hand to promote reconciliation in matrimonial cases. He had heard lately of a widow recounting the virtues of her husband, recently deceased, saying: "Really, he treated me more like a friend than a husband"! It was that which was often needed, and it might be successful.

Taxation

THE FINANCE BILL—II

ESTATE DUTY PROVISIONS

Gifts *inter vivos*—The property chargeable

The Present Position

As the law stands at present, estate duty on gifts *inter vivos* is charged upon "the property taken under the gift." In the case of a gift of a sum of money, duty is chargeable upon that amount of money no matter what has happened to it: it may have been spent or invested or lost; duty remains charged on the face value of the sum. In the case of a gift of property other than cash, estate duty can be charged only upon the value of that property as at the date of death. If the property has ceased to exist—e.g., a race-horse that has died or a Government security which has been redeemed—no duty can be charged upon the memory of the race-horse or the redemption moneys of the Government security. If the property has produced other property—e.g., a cow in calf which has calved or an ordinary share in a company in respect of which bonus shares have been issued—estate duty can be charged only upon the original property, which may very well be less valuable by reason of the production of the other property, and duty cannot be charged upon the other property so produced. Until the decision of the House of Lords in *Sneddon* v. *Lord Advocate* [1954] A.C. 257 showed the decision in the Court of Appeal in *Re Payne* [1940] Ch. 576 to have been erroneous, it was thought that in the case of a gift of property not to the donee absolutely but upon trusts for persons in succession the property taken was not the property originally given but was the property constituting the corpus of the trust from time to time, so that estate duty was charged upon the trust property as it existed at the death of the donor: after the House of Lords had shown this to be wrong the duty was charged upon the original property taken under the gift.

Of late, this system of charging duty has been more popular with the taxpayer than the Commissioners of Inland Revenue because it is possible, by ensuring that the property taken under the gift was likely to disappear by redemption or was likely to have its value reduced by bonus shares, greatly to reduce the liability of the donee. It has also some inconveniences from the taxpayer's point of view: by the Finance Act, 1894, s. 8 (4), where property passes on a death and the executor is not accountable, which is the case where property has been the subject-matter of a gift *inter vivos*:—

> "Every person to whom any property so passes for any beneficial interest in possession . . . and every person . . . in whom the same is vested in possession by alienation or other derivative title . . . shall be accountable for the estate duty on the property,"

and by s. 9 (1), *ibid.*, a rateable part of the estate duty upon an estate in proportion to the value of any property which does not pass to the executor as such is a first charge upon the property in respect of which the duty is leviable, provided that the property should not be so charged against a *bona fide* purchaser for value without notice.

Accordingly, when a purchaser is presented with an abstract of title from which it appears that there has been a gift *inter vivos* within a period of five years, he knows that if the donor dies within five years that property will be deemed to pass on the death and duty will be charged thereon: even if five years have elapsed the purchaser cannot be sure that the donor has not reserved some benefit so that duty will be chargeable at any length of time. The better view is that such a potential charge cannot be registered under the Land Charges Act, 1925, s. 10 (1), Class D (i), and therefore the purchaser has no protection from either the Law of Property Act, 1925, s. 199, or the Land Charges Act, 1925, s. 13 (2). The first occasion when this problem has come directly before the courts appears to have been *Manning* v. *Turner* [1957] 1 W.L.R. 91; *ante*, p. 46, where it was held that a title disclosing such a deed of gift was not one that the court would force on a reluctant purchaser, unless the defect is first removed by an indemnity policy issued by a reputable insurance office covering the risk to the purchaser of any demand for duty being made upon him.

The new proposals, which, by cl. 35 (15) of the Finance Bill, are to have effect only in the case of a death occurring after the Bill receives the Royal Assent, in which case it will apply in relation to all gifts made or dispositions or determinations effected or suffered at any time, leaves intact the principle that estate duty is charged upon the property taken under the gift, but places a gloss on that principle by providing that where certain events have happened duty shall be charged as if property which has not been given had in fact been given.

Gifts of Cash

The new proposals do not apply to a gift of "a sum of money in sterling or any other currency" unless that sum of money is settled by the donor at the time of the gift. In such cases that sum of money is deemed to pass no matter what has happened to it between the gift and the donor's death, and duty is accordingly chargeable thereon.

Settled Gifts

Where the donor declares trusts of the subject-matter of his gift, whether that subject-matter be a sum of money or not, the general effect of the new proposals is to restore the decision of the Court of Appeal in *Re Payne* [1940] Ch. 576 which was shown by *Sneddon* v. *Lord Advocate* [1954] A.C. 257 to have been erroneous upon the terms of the existing statutes. If the settlement continues to subsist at the time of the donor's death, estate duty will still nominally be charged upon the property taken under the gift, but will be charged as if the property taken under the gift was not that which was originally settled but was the property comprised in the settlement at the time of the donor's death except in so far as that property "neither is nor represents nor is derived from the property originally taken under the gift." The exception seems to be intended to cover any property which may have been added to the settlement independently of the original gift: such additional property, to the extent that it constitutes a gift, will be brought into charge under, as it were, its own title.

If the settlement comes to an end during the donor's lifetime, duty is to be charged upon the property taken under the gift as if the property taken under the gift was not that which was originally settled but was a sum of money equal to

the principal value of the settled fund at the time the settlement comes to an end. If, however, the donor at that stage becomes beneficially and absolutely entitled in possession to any of the erstwhile settled property, the value of that part of the property shall be excluded in computing what is the sum of money upon which duty is chargeable and there shall be included instead any consideration given by the donor for that property to which he then becomes entitled. In short, if under the terms of the settlement some part of the settled property goes back to the donor without payment, that shall be entirely excluded ; if the donor repossess himself of some part of the property by purchase the property is excluded, but there is included the purchase money which he pays.

Absolute Gifts other than Cash

Where there has been an absolute gift of property other than "a sum of money in sterling or any other currency," and at some time before the donor's death the donee has ceased to have possession and enjoyment of the property or any part thereof, all the enactments relating to estate duty, including the proposals contained in cl. 35, are to apply as though the property taken under the gift was not the property which was in fact taken under the gift but was the property (if any) received by the donee in substitution for the gift. Property received by the donee in substitution for the gift includes—

(*a*) in relation to property sold, exchanged or otherwise disposed of by the donee, any benefit received by the donee by way of consideration for the sale, exchange or other disposition ; and

(*b*) in relation to a debt or security, any benefit received by the donee in or towards the satisfaction or redemption thereof ; and

(*c*) in relation to any right to acquire property, any property acquired in pursuance of that right.

Furthermore, if the donee gives the property away or sells it at an undervalue, in each case to anyone other than the donor, he is to be treated as receiving in substitution for the gift a sum of money equal to the principal value of the property at the time of his own gift or sale, but it is expressly provided that this will not operate if the sale at an undervalue is made to any authority in a position to acquire the property compulsorily. Before considering the effect of all this on estate duty, it is interesting to observe that the draftsman of the Bill considers that purchases under threat of compulsory acquisition are sufficiently often made at an undervalue to make special statutory provision necessary.

It is proposed by cl. 35 (7) that, if the donee predeceases the donor, all the provisions for substitution of property and for including additional property are to apply as though the donee had not died and as though the acts of the donee's personal representatives were his own acts, and as though any property taken under his will or intestacy were taken under a gift made by him at the time of his death. Hence, one has to proceed at one and the same time on the footing that the donee has not died and that he has made a gift *inter vivos* at the time when he did die. Mastering these mental gymnastics, the effect seems to be that, if the beneficiaries or next of kin take absolutely, the transfer to them is to be regarded as a disposition by the donee otherwise than for consideration in money or money's worth, so that there is substituted for the property a sum of money equal to its principal value at the date of the donee's death, and duty is chargeable on that sum of money.

If the beneficiaries or next of kin do not take absolutely the matter is further complicated by the proposals in cl. 35 (9). This operates where the property taken under the gift is not originally settled but is settled by the donee during the donor's lifetime, and such settlement may be effected by the donee *inter vivos* or, if he predeceases the donor, by his will or intestacy. In such cases, the property so settled is to be regarded as settled by the original gift, so that duty will be chargeable not on a cash sum representing the principal value but upon the property from time to time forming the settled fund.

In the case of exchanges at an undervalue, these proposals have a rather peculiar result. If the property taken under the gift is at all times worth £1,000, and if the donee sells it for £1,000, then duty is chargeable on that sum of £1,000 and upon nothing else. If the donee sells the property for £500, that sale being at an undervalue, the donee will be treated as having received a sum of money equal to the principal value, that is to say, £1,000, and the result will be the same. If the property is exchanged for other property of a full value, i.e., £1,000, then that property so received in exchange will constitute the subject-matter of charge : if retained by the donee, it will fall to be valued on the death of the donor ; if it in turn is parted with, it will be necessary to look again to the property received in substitution for it. If, however, the original property is exchanged not for property worth £1,000 but for property worth £950, that will be a disposition at an undervalue, and accordingly there will be substituted not the property worth £950 but a cash sum of £1,000. This may produce some nice arguments in the future : if there is an exchange of property and the property received has appreciated in value by the time of the death of the donor, the taxpayer will probably contend that at the time of the exchange he had the worst of the bargain so that there is to be substituted a fixed sum of cash and not the property which has so appreciated.

The above proposals cover the case of property received in substitution for that taken under the gift and cover the case of property which has been given away or sold at an undervalue by the donee. The result of those proposals is that the property which will be deemed to pass and upon which duty will be charged will always be either a sum of money or property in the possession of the donee, and accordingly the difficulties of the purchaser mentioned above and considered by the court in *Manning* v. *Turner*, *supra*, will disappear ; there can never be a charge upon any property not in the possession of the donee and therefore purchasers need never worry about the matter once the present Bill receives Royal Assent.

It is next necessary to consider the treatment of property received additionally to that taken under the gift. It is proposed that if the property taken under the gift or the property deemed to have been taken under the gift by reason of the other proposals in the Bill consist of shares in or debentures of a body corporate, and if the donee is, by reason of his being or having been the holder of such shares and debentures, put into beneficial ownership and possession of other shares or debentures or if he is granted any right to acquire other such shares or debentures which are in either case in addition to rather than in substitution for the original shares or debentures, the additional shares or debentures so received are to be treated as if they were property taken under the gift. If the donee has to put his hand in his pocket to acquire the additional shares or debentures, then the amount he has to expend is allowable as a deduction in computing the

value of the property upon which duty is chargeable, but the donee cannot claim to have put his hand in his pocket by reason of any consideration consisting in the capitalisation of reserves of the body corporate concerned or the retention by that body corporate by way of set-off or otherwise of any property distributable by it or otherwise provided directly or indirectly out of the assets or at the expense of that or any associated body corporate. This latter provision seems to be intended to negative any argument which might be based upon *Inland Revenue Commissioners* v. *Thornton Kelley & Company, Ltd.* [1957] 1 W.L.R. 482; *ante*, p. 265.

The provisions for bringing into charge additional property are to some degree limited in that they extend only to the acquisition of shares in or debentures of a body corporate by reason of holding or having held such shares or debentures, which are property taken or deemed to be taken under the gift. It does not deal with the calf produced by the cow in calf, unless indeed the Commissioners of Inland Revenue are prepared to argue that the acquisition of a cow in calf was an acquisition of a right to acquire property (i.e., the calf) such as is mentioned in cl. 35 (2) (*c*) of the Bill.

Gifts *inter vivos*—The exclusion from the property

It will be recalled that the property taken under a gift is charged with duty unless the donee or trustees on his behalf assume *bona fide* possession of the property and thenceforth retain it so that the donor is excluded from all beneficial interests in or possession and enjoyment of the property given and from any benefit whether by contract or otherwise. This is a double-barrelled test: there must be exclusion from possession and enjoyment of the property and there must also be no benefit whether by contract or otherwise. In the present state of the law, when the property chargeable with duty is the property taken under the gift, it is that property taken under the gift and chargeable with duty from which the donor is to be excluded. Under the new proposals, whereby the property to be deemed to have been taken under the gift and so chargeable with duty may be something different altogether from the original property, it is proposed that the question of exclusion or otherwise of the donor is to be tested with reference to the property which would from time to time be treated as that taken under the gift and chargeable with duty.

Gifts *inter vivos* not exceeding £500

By the Finance Act, 1949, s. 33, if a gift does not include any interest in settled property whether settled by the donor or not, and the aggregate amount of the gifts made by the deceased to the donee in question does not exceed £500, the gift is exempted from duty. It is now proposed by cl. 35 (11) that a species of marginal relief will be given: the duty chargeable on gifts which would have been entitled to the benefit of this exemption but for their exceeding £500 is not to be greater than the amount by which such gift does exceed £500.

Gifts *inter vivos*—Aggregation

Under the existing law, since the property charged with duty is always the property taken under the gift, it follows that in every case the donor must have had an interest in that property so that no question can arise of any exemption from aggregation. Under the new proposals as explained above, all sorts of property may be treated as having been taken under the gift notwithstanding that the donor may never have had any interest in that property or indeed may never have heard of it. It is, therefore, proposed by cl. 35 (10) that the deceased shall be deemed to have had an interest in any property which is to be treated as having been taken under the gift and so charged with duty.

Determination of limited interests

Where a limited interest, e.g., a life interest or annuity, has been disposed of or determined as mentioned in the Finance Act, 1940, s. 43, as amended by the Finance Act, 1950, s. 43 and Sched. VII, a charge of duty is imposed upon the property in which the annuity or life interest subsisted and which would have passed or would have been deemed to pass had such determination or disposal not been effected. There has always been some difficulty in knowing precisely what property is subjected to the charge and there are three separate cases to be considered. First, where as a result of the disposition or determination the funds ceased to be settled at all; second, where notwithstanding the disposition or determination the funds remained settled, as where property is settled on *A* for life, remainder to *B* for life, remainder to *C*, and *A's* life interest is disposed of or determined leaving the property still settled upon *B* for life, remainder to *C*; third, where the disposition or determination is not over the whole or part of the settled property as such, but takes the form of raising thereout a specific sum. In the first type of case *Iveagh* v. *Inland Revenue Commissioners* [1954] Ch. 364 decided that the property which passed or was deemed to pass was the actual property subject to the annuity or life interest at the time of its disposition. The second type of case has never been the subject of judicial decision, although the Commissioners of Inland Revenue seem to lean to the view that duty would be charged not upon the assets as they were when the relevant limited interest was disposed of or determined, but rather upon the assets remaining in the trust fund at the date of death if that trust fund was still subsisting or upon the assets which constituted that trust fund at the time of its determination if it had been determined between the date of disposition and the date of the death. The third type of case was considered in *Re Joynson* [1954] Ch. 567 and it was held that the property charged was the sum of money raised.

It is now proposed by cl. 35 (12) that in such cases the charge is *prima facie* to be upon the property comprised at the date of the death in the settlement under which the interest subsisted, and that for the purposes of aggregation the deceased is to be deemed to have had an interest in such property; it is further proposed that, if the settlement has come to an end before the death of the donor, duty is to be charged upon a sum of money equal to the principal value of the settled funds at the time when the settlement came to an end, and there are provisions similar to those affecting gifts *inter vivos* to deal with the case where some of the settled property reverts to the donor by purchase or otherwise.

G. B. G.

Mr. Essex Trevelyan Channell, solicitor, of Priestgate, has been appointed clerk to the Peterborough Justices in succession to Mr. A. F. Percival, who will be retiring at the end of September.

Mr. Ronald Frank Savage has been appointed an assistant Official Receiver for the Bankruptcy District of the County Courts of Croydon, Guildford, Kingston-upon-Thames, Wandsworth and Windsor.

Landlord and Tenant Notebook

"ANY ACTIVITY CARRIED ON BY A BODY OF PERSONS"

THE judgment of Hilbery, J., in *Addiscombe Garden Estates, Ltd., and Another* v. *Crabbe and Others* [1957] 2 W.L.R. 964; *post*, p. 410, might well be used as an exercise in logic. The issue was whether demised premises occupied by the tenants, a society registered under the Industrial and Provident Societies Act, 1893, for the purposes of a lawn tennis club, were so occupied for the purposes of a business carried on by the tenants, so that the tenancy was one to which Pt. II of the Landlord and Tenant Act, 1954, applied. Part II, by s. 23 (2), enacts that "the expression 'business' includes a trade, profession or employment and includes any activity carried on by a body of persons, whether corporate or unincorporate." The learned judge held that the premises were so occupied, and his reasoning might be summarised as follows: the defendant tenants are a body of persons; running a (lawn) tennis club is an activity; *ergo*, Pt. II applies to the tenancy.

Management as activity

In so holding, Hilbery, J., referred to *Hills (Patents), Ltd.* v. *University College Hospital Board of Governors* [1955] 3 All E.R. 365 (C.A.), which contains authority for the proposition that, though a hospital does not carry on a business in the ordinary sense, those who manage one are engaged in an activity as a corporate body and are therefore carrying on a business within the meaning of s. 23 (2).

One might, of course, point out that hospitals have often been held to be businesses, though not run for profit, in decisions concerned with covenants not to carry on business (e.g., *Portman* v. *Home Hospitals Association* (1879), 27 Ch. D. 81*n* (C.A.)); but this is not inconsistent with the view that a hospital does not carry on business in the ordinary sense. But what one is rather left wondering is: what importance is to be attached to the point?

For, as is mentioned in the statement of facts, the club was originally a members' club, but it had been registered before the tenancy was granted. And, earlier in the judgment, the learned judge had remarked: "None of us would, in the ordinary way, think of a members' tennis club or a golf club as carrying on a business . . ." Having regard to the words "whether corporate or unincorporate," the registration circumstance seems unimportant. The real difficulty was whether the activity had to be that of a trade, profession or employment.

The *ratio decidendi*

The way in which Hilbery, J., actually solved the problem is, I think, best indicated by the passage: "[Counsel for the plaintiffs] asks me to say that, since the word 'business' is put in inverted commas, it indicates that it is a word to be applied in the sense in which it would ordinarily be used in everyday life, and that all that is enacted by the subsection is that one should, in using it in that way, include a trade, profession or employment and any activity of the same kind as would ordinarily be included in the word 'business.' But I find myself unable to give that construction to the subsection. All that need have been said *if it were intended to be read that way* was: 'The expression "business" includes a trade, profession or employment and includes any *such* activity carried on by a body of persons.' But Parliament has refrained from putting in the word 'such' . . . and I am left with the words 'includes any activity carried on . . .'" And, later on, at the conclusion of the judgment: "I cannot find any justification for limiting the words 'any activity' by inserting the word 'such' between the words 'any' and 'activity' so as to make it read 'any such activity'."

Implications

I may recall that when the Act was passed the "Notebook," after citing observations made by Lord Watson in *Dilworth* v. *Stamps Commissioners* [1899] A.C. 99 (P.C.) on the two possible meanings of "includes" in an interpretation section, and tentatively suggesting that in the case of s. 23 (2) "includes" was not meant to enlarge the meaning of the earlier words, remarked that it might well be rejoined that, if such were to be the effect, the words of s. 23 (2) would have been "includes any *such* activity" (98 SOL. J. 617–8). Views expressed later that profit-making might be held to be an essential element (99 SOL. J. 575; and see "Current Topics," 99 SOL. J. 650) were disposed of by *Hills (Patents), Ltd.* v. *University College Hospital Board of Governors, supra*; though, as the "Notebook" commented (99 SOL. J. 866), the point was not gone into as thoroughly as might be desired, far more attention being devoted to an issue turning on the subtle difference between possession and occupation.

The effect is, however, that if anyone is to find justification for inserting the word "such" between the words "any" and "activity" in s. 23 (2), inspiration must be sought in decisions on the interpretation of statutes.

An omission?

In *Heydon's Case* (1584), 3 Co. Rep. 7a, Coke stated the general rules governing interpretation of statutes: ascertain what the common law was before the enactment, what mischief or defect the enactment was meant to remedy, what the remedy was, and what its reason was. Authority can be found that in applying these rules an omission may be supplied: there is *Salmon* v. *Duncombe* (1886), 11 App. Cas. 627, with Lord Hobhouse's: "It is a very serious matter to hold that when the main object of a statute is clear, it shall be reduced to a nullity by the draftsman's unskilfulness or ignorance of law." And there is also authority to support the proposition that the heading of a statute may be considered when its scope has to be determined (e.g., Co. Litt. 79a: "The rehearsal or preamble is a good mean to find out the meaning of a statute, and as it were a key to open the understanding thereof"). But the heading to the Landlord and Tenant Act, 1954, says: ". . . to enable tenants occupying property for business, professional *or certain other* purposes to obtain new tenancies in certain cases"; and there is much authority to show that the heading may not be invoked so as to contradict clear and ambiguous language in the Act itself (*Wilmot* v. *Rose* (1854), 3 E. & B. 563; *Sage* v. *Eicholz* [1919] 2 K.B. 171). On the whole, then, I would not say that the prospects of impugning the judgment by contending that the word "such" ought to be imported into the subsection would be very bright.

"Any activity"

But possibly something might be done by conceding the validity of the reasoning; "such" should not be inserted; very well, but does the subsection really cover premises occupied by a body of persons for the purposes of playing lawn tennis? Which is, of course, rather a different kind of activity from that of managing a hospital.

Construction which leads to absurd results or produces injustice should, if possible, be avoided (see *Waugh* v. *Middleton* (1853), 8 Exch. 352; *Plumstead Board of Works* v. *Spackman* (1884), 13 Q.B.D. 878 (C.A.): "A judge ought to struggle with all the intellect that he has, and with all the vigour of mind that he has, against such an interpretation"); and this might, I would submit, be said of a result which would mean that a chess enthusiast whose enthusiasm is limited to solving problems and an amateur saxophone player who out of consideration for his neighbours takes premises where his efforts cannot be overheard would not be protected by Pt. II of the Landlord and Tenant Act, 1954, while a chess club or amateur orchestra would enjoy protection.

But, "if possible"; *ex concessis*, one cannot hope to achieve success, once one has admitted that "such" cannot be inserted, without showing that either the word "any" or the word "activity" or both, must be given a somewhat restricted interpretation. "Any" has often been the subject of decisions; "activity" has, I believe, not yet been interpreted.

The decisions in which "any" has been given a restricted meaning are numerous, and I will mention but a few at random: "any person" in the Metropolis Management Amendment Act, 1862, s. 61, was held, in *Metropolitan Board of Works* v. *London and North Western Rly. Co.* (1880), 14 Ch. D. 521; (1881), 17 Ch. D. 246 (C.A.), to apply only to a limited class of persons; "any lawful purpose" in the Industrial and Provident Societies Act, 1876, s. 12 (application of profits), was held in *Warburton* v. *Huddersfield Industrial Society* [1892] 1 Q.B. 817 (C.A.) not to mean "any lawful purpose under the sun," but any lawful purpose of the society; "any article liable to be seized" in the Public Health (London) Act, 1891, s. 47 (3), in *R.* v. *Dennis* [1894] 2 Q.B. 458, to apply only to articles of food liable to seizure by reason of their condition; and "any debt owing or accruing", in rules of court providing for garnishee proceedings, covered, it was held in *Heppenstall* v. *Jackson and Barclays Bank, Ltd.* [1939] 1 K.B. 585 (C.A.), existing debts only, the learned county court judge whose judgment was impugned having, Scott, L.J., said, disregarded a series of decisions.

On the meaning of "activity" I have not been able to find any judicial authority. It can, of course, be pointed out, not only that the formation of a body of persons is in itself an activity, but that it is difficult to visualise the formation of such a body for a purpose which is not an activity of some sort, even if it be that of quiet contemplation. Charles Lamb, my dictionary tells me, mentions "activity without purpose" but the context is not given, and it is not to be expected that the activity was that of a body, either corporate or unincorporate. I can remember that the levying of rates for the support of certain schools once brought into existence what were called "passive resisters"; but the mere fact that the "passive resistance *movement*" was a phrase often used suggests activity, and like reasoning would apply to such organisations as "Alcoholics Anonymous." Still, I would not regard the proposition that some limitation must be imposed on the meaning of "activity" so as to distinguish the purposes of a lawn tennis club from those of a hospital management committee as altogether hopeless.

R. B.

HERE AND THERE

TO SEE OURSELVES

THE wise man does not flee abroad from Holborn, Chelsea or Sydenham for the mere transitory and superficial pleasure of briefly glimpsing Seville, Casablanca or The Hague. The pleasure is incidental, but the real object of the journey is to see Holborn, Chelsea and Sydenham, freed from the veil of custom that made them seem commonplace and stale, instead of shining for us (as they should) as part of the fantastic kaleidoscope of human eccentricity and ingenuity. Foreign travel takes us out of ourselves in order that we may see ourselves from the outside, to put ourselves into the mood of the Frenchman dreamily fingering the travel leaflet which promises him interesting journeys "*au pays de Shakespeare et du Plum Pudding*," including a free day at that "*station thermale renommée*," Llandrindod Wells. A keen foreign observer not long ago noted the tendency even of well travelled Continentals to speak of England as Marco Polo did of China. They are the men into whose shoes we want to step. The true object of crossing the Channel is to recross it and to discover England. But there is one thing a little more startling than seeing ourselves as others see us and that is to see ourselves as we see other people, to be tipped off one of the little pedestals from which we are wont to survey the world. Now, one of the grounds on which the English have been accustomed to congratulate themselves that they were not as other men, especially Spaniards, was the fact that there were still cave-dwellers in Spain. The caves may or may not have been dangerous to the health of their inhabitants, but one gathered that it was by cave-dwelling as such that our national sense of superiority was affronted; cave-dwelling was reactionary, retrograde, out of date, even to the daily travellers on the Underground and the recent troglodytes of the air-raid shelters. But, apart from progressive dogma, it is hard to see by what absolute standard the urban or suburban house-dweller maintained a conscious superiority alike over Ali-baba, over the prehistoric artist geniuses of Altamira or Les Eyzies, over St. Paul the Hermit and the Desert Fathers or St. Ignatius at Manresa. Still, there it was, we felt superior to them all.

THE NEW CAVE-DWELLERS

BUT what's this? All of a sudden we discover that there are cave-dwellers in England. Yes, to-day, and, what is more, they are in arrears with their rent. So there are actually caves to let just round the corner. The whole thing came into the news as a result of a possession case in the Kidderminster County Court. The dwelling consists of three rooms hewn out of the red sandstone at Drakelow in Worcestershire. It has open grates for coal fires with chimneys going up through the solid rock. The lighting is by oil lamps. There is a tapped water supply a little way down the slope. The rent is 6s. a week. The present tenants, who have been in occupation for five years, live there with four of their eight children. Whether or not the grown-ups in the family

appreciate their good fortune in occupying a dwelling at once so solid and so full of character, those of us who remember our childhood when the one thing of all others that we longed for was to live in a cave or on a tree-top platform or on a raft on a lake will be sure that the children at least, if they have a normal sense of fun, would not exchange it for all the planned amenities of Crawley New Town. The tenants resisted the possession order and the deputy judge made an order for possession in August, suspended so long as the rent was paid with 4s. a week off the arrears. It might seem more appropriate if the rent were reckoned in terms of bone implements or flint arrowheads, but even cave-dwellers must conform in some respects to the idiom of the time in which they live. Another cave-dweller, however, who recently came into public notice by way of the county court, seems to have come closer to the troglodyte habits of his remoter ancestors than one would have believed possible in the particular surroundings which he has chosen for his return to the primitive. Somewhere in the tunnels under the roaring furnaces of the Llanelly Steelworks a man has been living, eating and sleeping for over eighteen months. The maze of dark passages is ideal for the hide-and-seek existence of a human rabbit. There is warmth. There is food which friendly workmen may leave about. There is endless cover. Recently the company applied to the Llanelly County Court for an injunction against the intruder to keep out and Judge Trevor Morgan granted it. The elusive cave man did not appear. Whether the voice of the law will have any practical efficacy in calling him from his murky depths remains to be seen. But it is odd that at the very moment when so much of our attention is being directed to space travel and inter-planetary rockets and the imminence of a scientific millennium, we should be reminded like this that our remotest origins have not been left so very far behind Of course, rockets tomorrow may mean cave-dwelling the day after tomorrow with Llanelly County Court in the tunnels and Kidderminster County Court in the old red sandstone.

RICHARD ROE.

THE SOLICITORS' LAW STATIONERY SOCIETY LIMITED

ANNUAL REPORT

The sixty-eighth annual general meeting of the Society was held at Oyez House, Norwich Street, Fetter Lane, on Tuesday, 14th May, Mr. K. D. Cole in the chair.

The chairman's statement circulated with the report and accounts said :—

" The report which I have to submit to you reflects the policy adopted last year of not increasing our prices despite the higher wages and overhead costs. Although sales showed a further increase, the rate of expansion was lower than in recent years. This increase has largely been achieved by developing our business in new directions to compensate for those which were not so active.

Profit.—The profit has fallen from the record figure of last year to £123,393, a reduction of £42,225. As a result of the narrowing of our profit margins, the gross profit on the larger turnover was only slightly higher, and there was an increase, much of it outside our control, in departmental expenses.

The expenses of administration also show the same trend and include the expenditure of £3,500 in connection with method study, of which we shall reap the benefit to some extent this year and still more in future years.

The contributions to our Pension Funds include a special additional payment of £3,000 required in each of the next five years to maintain the actuarial soundness of our main fund.

Reserves.—As the Rebuilding Reserve stands at a figure sufficiently large to meet possible claims on it, it is not proposed to increase it further, but to transfer £15,000 to the General Reserve.

The amount of £2,800 transferred from the Taxation Equalisation Reserve to the Appropriation Account represents an excess reserve in respect of the unexpired taxation benefit arising from the operation of initial allowances.

Dividend.—The Directors recommend a final dividend of 8 per cent., less income tax, thus maintaining the total of 12 per cent. paid for the previous year.

Oyez House.—Considerable progress has been made in the rebuilding of the southern portion of the new Oyez House and we hope to commence moving into it in the last quarter of this year.

The amounts paid to the contractor during the year have been met out of current resources and it has not been necessary so far to ask for any part of the further loan arranged with the Legal and General Assurance Society, Ltd. Two factors have contributed to this; first, the reduction in our Stocks and Work-in-Progress by some £18,000, and, second, smaller purchases of plant and furniture than in recent years, the expenditure being, in fact, less than the depreciation for the year. In the past ten years we have spent considerable sums on modernising and expanding our plant and equipment and, while necessary replacements and additions continue to be made, expenditure on them is likely to be at a lower rate than in those years.

The Solicitors' Journal.—The *Solicitors' Journal*, which we have owned since 1920, celebrated its centenary in January of this year, and the event was marked by a reception at The Law Society's Hall at which we were privileged to have encouraging addresses from the Lord Chancellor and the Vice-President of The Law Society. The Journal enters its second century of service to the profession with a determination to enhance further the position it has attained.

Prices.—I have already explained that the fall in our profits was largely accounted for by the reduction in our profit margins. A careful review of our prices, many of which had not been altered for some years, was made at the end of the year and some upward adjustments were made in the light of current costs and trading conditions. In the meantime, we are continuing to give close attention to economies, to improved methods and to greater efficiency. As a result of the advice of the consultants whom we have employed, new methods of invoicing and of rendering accounts are being introduced in the next few months and will result in considerable savings.

Office Equipment.—As we believe that solicitors are increasingly realising the need to reorganise and re-equip their offices on modern lines, we are giving special attention to the supply of suitable office equipment. A separate department to handle this growing side of our business is being set up shortly.

Private Acts of Parliament.—As a result of a recent change in procedure, we are now authorised by Her Majesty's Stationery Office to print the Queen's Printer's copies of Private Acts in those cases where we have, as in the past, printed the Bills on the instructions of Parliamentary Agents.

Staff.—I feel that I am speaking for all the shareholders when I express our thanks to the Managing Director and the staff under him for their work during the past year. We have a most loyal and efficient team and we are very grateful to them.

The Current Year.—So far this year our sales have been maintained. While I hesitate to forecast, the indications at present are that, in the absence of unforeseen developments, the results for the current year will not be materially different from those for 1956.

The report and accounts were unanimously approved, and Mr. H. Wentworth Pritchard and Mr. J. F. Burrell, retiring by rotation, were re-elected as directors.

The remuneration of the auditors was fixed for the ensuing year.

The meeting terminated with a vote of thanks to the directors.

NOTES OF CASES

The Notes of Cases in this issue are published by arrrangement with the Council of Law Reporting, and full reports will be found in the Weekly Law Reports. Where possible the appropriate page reference is given at the end of the note.

Court of Appeal

NUISANCE: ROOTS OF TREES FROM ADJOINING LAND DAMAGING HOUSE

Davey *v.* Harrow Corporation

Lord Goddard, C.J., Jenkins and Morris, L.JJ. 16th April, 1957

Appeal from Sellers, J.

The plaintiff claimed damages for nuisance, alleging that roots from trees on adjoining land, the property of the Harrow Corporation, had penetrated into the plaintiff's land and caused damage by subsidence to his house. Sellers, J., found that the house had been damaged by root penetration and assessed the damages at £1,000, but he held that the trees from which they came were not the property of the defendants, and accordingly dismissed the plaintiff's action. The plaintiff appealed and called further evidence before the Court of Appeal to show that the trees at the material time were growing on the defendants' land, and the court so found. On the question of liability—

LORD GODDARD, C.J., reading the judgment of the court, said that it was not disputed that where a tree encroached on a neighbour's land, whether by overhanging branches or by the penetration of roots, the adjoining owner could abate the nuisance by lopping the branches or grubbing up the roots. That the encroachment was not regarded as a trespass but as a nuisance was well settled. In *Lemmon* v. *Webb* [1894] 3 Ch. 1, Kay, L.J., said that the encroachment of boughs and roots was a nuisance, and for any damage occasioned an action would lie. It was true that the actual point decided in that case was that the adjoining owner could lop the branches which overhung his land without giving notice to the owner of the tree, but the case went to the House of Lords ([1895] A.C. 1) and nothing was said by way of disapproval of the judgment. In the court's opinion, once it was established that encroachment by roots was a nuisance, it followed that if damage was caused thereby an action on the case would lie. No distinction was to be drawn between trees that were planted and those that were self-sown, and it was no defence to say that the damage was caused by natural growth or natural causes. Appeal allowed. Leave to appeal refused.

APPEARANCES: *J. G. Strangman*, Q.C., and *G. C. Heseltine* (*Howlett & Clarke*); *Charles Russell*, Q.C., and *M. V. D. Van Oss* (*William Charles Crocker*).

[Reported by Miss C. J. ELLIS, Barrister-at-Law] [2 W.L.R. 941

SHIPPING: CHARTERPARTY: CLAUSE PARAMOUNT HELD MEANINGLESS IN CONTEXT

Anglo-Saxon Petroleum Co., Ltd. *v.* Adamastos Shipping Co., Ltd.

Denning, Parker and Sellers, L.JJ. 16th April, 1957

Appeal from Devlin, J. ([1956] 2 W.L.R. 509; *ante*, p. 267.)

A tanker was chartered by an oil company, under a charter expressed to remain in force for as many consecutive voyages for which the vessel could tender for loading within a period of eighteen months, to carry cargoes of oil all over the world at specified rates of freight per ton per voyage or a return cargo of fresh water at a lump sum. Clause 1 of the charterparty provided that the vessel, being "tight, staunch and strong and every way fitted for the voyage, and to be maintained in such condition during the voyage, perils of the sea excepted, shall with all convenient despatch sail and proceed to" a nominated port and there load a cargo of oil. The following clause was incorporated in the charterparty by a typed slip: "Paramount clause. This bill of lading shall have effect subject to the Carriage of Goods by Sea Act of the United States . . . 1936, which shall be deemed to be incorporated herein, and nothing herein contained shall be deemed a surrender by the carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said Act. If any term of this bill of lading be repugnant to said Act to any extent, such terms shall be void to that extent but no further." The owners, exercising due diligence, selected and appointed an engine-room staff, but that staff proved incompetent, and by reason of their incompetence (amounting to unseaworthiness) the vessel broke down on the first voyage to her loading port, and other similar incidents followed, with the result that the charterers lost the services of the vessel during 106 days. They claimed damages for loss of services of the vessel. The owners sought to rely on the paramount clause to exempt them from liability for unseaworthiness of the vessel.

DENNING, L.J., said that the real question was whether the incompetence of the engine room staff and consequent damage to the machinery and delay to the vessel was a breach of the terms of this consecutive voyage charterparty. Unless the owners were protected by some exempting clause they were on the true construction of this charterparty in breach of one or more of the obligations to provide and maintain a seaworthy ship at the beginning of and during each successive voyage, to exercise reasonable care and skill through their servants, and to proceed on and complete each voyage with convenient despatch. They now sought to rely on the paramount clause to exempt themselves from liability. There was no doubt that the paramount clause was incorporated in the contract and in turn incorporated into the contract the Act of the United States. But the question for the court was: What did it mean? When the court tried to read this paramount clause—incorporating as it did an Act applicable, not to a charterparty, but to a bill of lading, in respect of contracts for the carriage of goods by sea to or from ports in the United States—into a worldwide consecutive voyage charterparty, the court could not make sense of it; and it must be rejected as insensible, particularly as an exempting clause; for a party to a contract could not escape from his liability under it by reason of an exempting clause unless he did so by words which were clear, effective and precise. The shipowners' claim to exemption failed on that last ground if on no other. The charterers' appeal on liability should be allowed.

PARKER, L.J., concurring, said that though the court would only in the last resort disregard as nonsence what commercial men had agreed upon, it was not possible in this case to select those provisions of the Act which the court thought reasonable to apply. That would be to make a new contract for the parties. The whole of the paramount clause must be rejected. On the obligations under the charterparty, his lordship said that the charterers were entitled under its terms to the use of the vessel for as many consecutive voyages for which the vessel could tender, and the delays on the various voyages which occurred could be aggregated and damages claimed for any loss of use of the ship.

SELLERS, L.J., also concurring, said that the obligation to maintain was a continuing warranty of seaworthiness. A vessel was maintained in a watertight condition by the necessary inspections and surveys, replacements and repairs. It was not so maintained if it was allowed to leak and was then repaired with despatch and diligence.

Appeal of charterers allowed. Cross-appeal of shipowners dismissed. Leave to appeal to the House of Lords granted.

APPEARANCES: *A. A. Mocatta*, Q.C., and *S. O. Olson* (*Walton and Co.*); *Ashton Roskill*, Q.C., *T. G. Roche*, Q.C., and *Basil Eckersley* (*Constant & Constant*).

[Reported by Miss M. M. HILL, Barrister-at-Law] [2 W.L.R. 968

Chancery Division

MORTGAGE: TENANCY AGREEMENTS MADE BEFORE MORTGAGORS ENTITLED TO PROPERTY

Hughes *v.* Waite and Others

Harman, J. 31st January, 1957

Adjourned summons.

This summons was issued under Ord. 55, r. 5A, by the plaintiff, Mrs. Mary McKay Hughes, as mortgagee claiming possession of a house. The defendants were the mortgagors, Peter William Waite, Derek Walter Waite and William Henry Waite, and Meyrick, Mrs. Duignan and Collins, the respective occupants of three flats in the dwelling-house, who claimed to be tenants

of the mortgagors. Each occupant had paid to the mortgagors one or more lump sum or sums. Receipts were given to Meyrick describing his payment as a "deposit," to Collins describing his as "advance rent" and also as a "holding deposit," and to Mrs. Duignan describing hers as a "holding deposit," and to Collins describing a further payment by him as the balance of three years' inclusive rent. The occupants accordingly claimed to be entitled to tenancies which would be good against the plaintiff as mortgagee.

HARMAN, J., said that it used to be recognised that a mortgagee might take possession as a matter of course, and it was only in recent years that the housing shortage and the Rent Restrictions Acts between them had made what seemed to be a difficulty on this matter. In the present case the plaintiff became the registered owner of this property in 1948. She sold it to the Waites on 26th October, 1955. On that date they executed in her favour a charge in the Land Registry form to secure £1,100 as part of the purchase money. That was the first occasion that the Waites had any interest in the property. The conveyance and the charge operated in equity until put on the register on 14th November, 1955, when for the first time a legal interest was created in them. That derived from the Land Registration Act, 1925, s. 19. The property was empty, and being converted into three flats. The Waites, who carried on an estate agency business, disposed of the accommodation to the occupants long before they had any interest in it themselves, in fact by 24th September, 1955. They let occupants into possession in October and November, 1955. The Waites, having obtained comparatively large sums, paid nothing whatever on the mortgage which they had created, and the plaintiff was minded by May, 1956, to exercise her remedy as mortgagee and take possession. She found these three defendants in occupation, saying that they were tenants, and, moreover, that they had paid all the rent that was due from them for three years, and that nothing, therefore, was payable to her at all. It was said that was the effect of the law on what had happened. The question was which of two defrauded parties ought to suffer? Before 1881 a mortgagor could create no tenancy valid against his mortgagee, but since that year the mortgagor while in possession had had statutory powers of creating certain leases, and under the Law of Property Act, 1925, s. 99, the mortgagor had wide powers. It was true that the court would have striven to help the occupants against the Waites to obtain some kind of satisfaction, they having been let into possession on the faith of promises. But that did not apply to the plaintiff, who was no party to these promises and no estoppel affected her. These bargains were made before the Waites had any interest in the property, legal or equitable, or at all. They were, therefore, not exercising the powers exercisable by a mortgagor, because the Waites were not then mortgagors, and he could not see that this gave the occupants any estate or interest in the property as against the plaintiff. They did not pay a weekly or other periodical rent so as to create a periodical tenancy between them and anybody at all. They were merely occupiers on sufferance of the three flats which they now occupied. That being so, they had no answer to the plaintiff's claim for possession. But even if the occupants did have some bargain with the Waites which entitled them as against the Waites to tenancies, were these tenancies which the Waites had power as mortgagors to grant after they became mortgagors? In his judgment, plainly they were not; they were not tenancies at a rent at all. The sums paid could only be described as premiums or foregifts. A fine was defined in the Law of Property Act, 1925, s. 205 (1) (xxiii), as including a premium or foregift; these payments were clearly foregifts—sums paid entirely in advance. He had no wish to retract the view which he had apparently formed in *City Permanent Building Society* v. *Miller* [1957] Ch. 581, namely, that to take the whole rent in advance was to take a fine and was not within the power of a mortgagor under the Law of Property Act, 1925, s. 99. He therefore proposed to make a decree in favour of the plaintiff for possession within twenty-eight days from the completion of the order. Order accordingly.

APPEARANCES: *H. A. H. Christie*, Q.C., and *P. R. Oliver* (*E. W. H. Christie* with them) (*James & Charles Dodd*); *P. Ingress Bell*, Q.C., and *Dudley Collard* (*Mills, Lockyer & Co.*).

Peter, Derek and William Waite were not represented and did not appear.

(Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law) [1 W.L.R. 713

CONTEMPT OF COURT: PROCEEDINGS IN CHAMBERS BEFORE MASTER: INACCURATE NEWSPAPER COMMENT AND DESCRIPTION BEFORE ADJOURNMENT INTO COURT

Alliance Perpetual Building Society *v.* Belrum Investments, Ltd., and Others

Harman, J. 13th February, 1957

Motion.

In 1955, *D* bought a house which he resold to a company controlled by himself and his wife. The company mortgaged the house by legal charge to a building society to secure money lent, *D* and his wife joining as sureties. In June, 1955, the building society issued a summons claiming possession of the property and nothing else. *D* and his wife were joined in the action only because they were in possession and claimed to be tenants of the mortgagor company. The action proceeded in the normal course in chambers and the master gave an appointment before him for 18th January, 1957, to adjourn the action into court for hearing. On 3rd January, 1957, an article appeared in a newspaper stating that *D* was to fight a writ which threatened his possession of his luxury home, that the building society claimed that a mortgage advanced to *D* on his £20,000 house had not been honoured and that the building society was seeking foreclosure, and that the action had been listed by a judge in chambers for 18th January. Then came a purported account of a reporter's telephone interview with *D*, who was stated to have said that he had plenty of money and that it would take a long time to get him down. The author was a journalist employed by the newspaper. The article was inaccurate and a misleading account of the proceedings. It represented the action as a proceeding for foreclosure against *D* arising out of default in paying mortgage money. The action had neither of those ingredients. A writ for libel was issued against the newspaper. By this motion, *D* asked that the editor be committed to prison for contempt in publishing the purported account of proceedings in the action which was pending in chambers and had not yet been adjourned into open court. The editor by his affidavit disclaimed any intention of contempt but exhibited a copy of the summons (to which he had no right) without saying how he came by it; and he persisted in the wholly inaccurate statement that the summons showed that the claim was that the company had not paid the mortgage instalment and that *D* and his wife defaulted as sureties.

HARMAN, J., said that the article was full of inaccuracies and could be fairly described as a most misleading account of the proceedings. It represented the action as being a proceeding for foreclosure against the applicant arising out of his default in repaying the mortgage money. It had neither of these ingredients. The applicant had issued a writ for libel against the newspaper. As to that, he made no comment. This motion was not launched until a month later. The gravamen of the charge made was that the article was an account of matters proceeding in chambers. In his judgment, if this charge be true, a contempt of court had been committed. Interlocutory matters before the master proceeded in private; the public had no right to attend them, nor had anyone, as he conceived, any right to give any account of them while the action was pending and had not been adjourned into court. This was in fact a disclosure of a matter proceeding in the privacy of chambers, and at least technically a contempt. The respondent in his affidavit in answer disclaimed any intention of contempt, but the matter of his affidavit made the fault worse. He exhibited a copy of the originating summons itself; he did not say how he came by this document. It was one which he had no right to have in his possession. Documents in a pending action should not be disclosed to strangers to the suit. The statement that the action had been listed was untrue, for it implied that it had appeared in some list of actions to which the public had access, the truth being that only someone who had access to the parties could know of the appointment made by the master. Discussing the authorities, his lordship said that the cases of *Gaskell & Chambers, Ltd.* v. *Hudson, Dodsworth & Co.* [1936] 2 K.B. 595 and *In re William Thomas Shipping Co., Ltd.* [1930] 2 Ch. 368 were to be distinguished. After considering *In re New Gold Coast Exploration Co.* [1901] 1 Ch. 860 and *R.* v. *Evening Standard Co., Ltd.* [1954] 1 Q.B. 578, he said that in his judgment he ought not to hold that the applicant or any witness on his behalf would be deterred by what had happened from going on with his action

or giving his evidence. In fact, the evidence was complete and was all on affidavit. Nevertheless, he had been justified in bringing this matter before the court. The respondent had no right to comment on the matter, at any rate in a garbled form, falsifying the issues. It was no justification to say that the applicant's rights, if he had any, could be vindicated in the libel suit. He was entitled to complain of the unwarranted intrusion of a stranger into his affairs. He was content to accept the defendant's disclaimer and apology; but he could not overlook the result. He regarded it as important that this kind of intrusion on matters pending in chambers should be strongly discouraged and he felt bound to mark the court's displeasure by fining the respondent £100. Order accordingly.

APPEARANCES: *J. Platts-Mills and Claud G. Allen* (*J. M. Isaacs & Co.*); *Sir Hartley Shawcross*, Q.C., and *Neville Faulks* (*Swepstone, Walsh & Son*).

[Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law] [1 W.L.R. 720

TRUST FOR NEW ALPHABET: WHETHER CHARITABLE

In re Shaw, deceased; Public Trustee *v.* Day and Others

Harman, J. 20th February, 1957

Adjourned summons.

By his will dated 12th June, 1950, George Bernard Shaw (hereinafter called "the testator") directed his trustee to hold his residuary trust funds and the income thereof on trusts for purposes connected with the alteration of the alphabet. On 2nd November, 1950, the testator died; and by this summons the Public Trustee, as executor and trustee of the will, asked, *inter alia*, whether the alphabet trusts were valid and effectual or were invalid and failed on the ground of uncertainty, perpetuity, impracticability, public policy or any other ground, and whether he ought to take any steps towards carrying out the trusts or ascertaining whether they were impracticable. The defendants to the summons were Frederick William Day and his wife, the trustees of the British Museum, the Governors and Guardians of the National Gallery of Ireland, the Royal Academy of Dramatic Art and the Attorney-General.

HARMAN, J., in a reserved judgment, said that the Attorney-General appeared as *parens patriae* to uphold the trusts as being charitable, and also supported the proposition of the executor that, even if not charitable, these trusts, not being tainted with the vice of perpetuity, were a valid exercise by a man of his power of disposing of his own money as he thought fit. The claimants retorted that these trusts were not charitable trusts. The four heads of charity were (i) religion, (ii) poverty, (iii) education, and (iv) "other purposes beneficial to the community." The first object of the alphabet trusts was to find out by inquiry how much time could be saved by persons who speak the English language and write it, by the use of the proposed British alphabet and so to show the extent of the time and labour wasted by the use of our present alphabet, and, if possible, further to state this waste of time in terms of loss of money. The second was to transliterate one of the testator's plays, "Androcles and the Lion," into the proposed British alphabet assuming a given pronunciation of English, and to advertise and publish the transliteration in a page-by-page version in the proposed alphabet on one side and the existing alphabet on the other, and, by the dissemination of copies and, in addition, by advertisement and propaganda, to persuade the Government or the public or the English-speaking world to adopt it. This was described by the Attorney-General as a useful piece of research beneficial to the public, because it would facilitate the education of the young and the teaching of the language and show a way to save time and therefore money. It was suggested that the objects could thus be brought within the third category. If the object was merely the increase of knowledge, that was not in itself a charitable object unless it was combined with teaching or education. The research and propaganda enjoined by the testator merely tended to the increase of public knowledge in a certain respect, namely, the saving of time and money by the use of the proposed alphabet. There was no element of teaching or education combined with this, nor did the propaganda element in the trusts tend to more than to persuade the public that the adoption of the new script would be "a good thing," and that was not education. This element was, therefore, rejected. There remained the fourth category. This did not embrace all objects of public utility. The research to be done was not a task of general utility. To be persuaded of that, his lordship would have to hold it to be generally accepted that benefit would be conferred on the public by the end proposed. But that was the very conviction which the propaganda based on the research was designed to instil. The testator was convinced, and set out to convince the world, but the fact that he considered the proposed reform to be beneficial did not make it so any more than the fact that he described the trust as charitable constrained the court to hold that it was. The objects of the alphabet trusts were analogous to trusts for political purposes, which advocated a change in the law. Such objects had never been considered charitable. His lordship, therefore, did not reach the further inquiry whether the benefit was one within the spirit of the Statute of Elizabeth, but if he had to decide that point, he would hold that it was not. It was argued for the ultimate legatees that, apart from any other consideration, the vice of uncertainty was fatal. As the authorities stood, the project could not be upheld apart from charity. One could not have a trust, other than a charitable trust, for the benefit, not of individuals, but of objects, because the court could not control the trust. The result was that the alphabet trusts were invalid and failed. Declarations accordingly.

APPEARANCES: *Robert Lazarus* (*J. N. Mason & Co.*); *Mark Cockle* (*Russell Jones & Walker*); *Charles Russell*, Q.C., and *P. W. E. Taylor* (*Charles Russell & Co.*); *K. J. T. Elphinstone* (*Bentleys, Stokes & Lowless*); *E. Milner Holland*, Q.C., and *Denys Buckley* (*Treasury Solicitor*).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law] [1 W.L.R. 729

MORTGAGEE'S SUMMONS FOR POSSESSION: DISCRETION TO ADJOURN CONFINED TO MORTGAGES REPAYABLE BY INSTALMENTS

Four-Maids, Ltd. *v.* Dudley Marshall (Properties), Ltd.

Harman, J. 20th March, 1957

Adjourned summons.

By a registered legal charge dated 17th February, 1956, Dudley-Marshall (Properties), Ltd., charged certain property to secure repayment of the sum of £6,000, together with interest thereon payable half-yearly on 17th August and 17th February in every year; and it was provided that if the mortgagor should pay each instalment of interest within seven days after the day on which it became due, the principal moneys should not be called in before 31st December, 1958. The mortgagor was, and had since the execution of the charge been, in possession of the mortgaged property. The mortgagor failed to pay the instalment due on or before 17th August, 1956, or within seven days thereafter. On 29th August, 1956, the mortgagee served on the mortgagor a written notice requiring payment forthwith of the said principal sum of £6,000 with interest owing. On 27th September, 1956, the mortgagor paid to the mortgagee the interest which became due on 17th August. The whole of the principal money remained due under the charge and no part of it had been received by the mortgagee. By an originating summons in the Chancery Division under R.S.C., Ord. 55, r. 5A, dated 4th January, 1957, the mortgagee asked for possession of the mortgaged property. The master on 22nd February, 1957, made an order for possession, to expire two months after service of the order. The mortgagor obtained leave to adjourn the matter to the judge.

HARMAN, J., said that the right of the mortgagee to possession in the absence of some specific contract had nothing to do with default on the part of the mortgagor. The mortgagee might go into possession immediately unless there was something in the contract express or by necessary implication whereby he had contracted himself out of that right. He had the right because he had a legal term of years in the property. If there was an attornment clause, he had to give notice. If there was a provision that so long as certain payments were made he would not go into possession, then he had contracted himself out of his rights. Apart from that, possession was a matter of course. He thought that the confusion which had arisen about this matter was a natural one stemming from the alteration of the rules in 1936. The Chancery judges made a practice direction in 1936 which now appeared in the note to R.S.C., Ord. 55, r. 5A, in the Annual Practice. That had led to a good deal of confusion, because it would appear that every time a mortgagee applied to the

court, the master, or rather, the court, would look into the matter and would adjourn the matter from time to time to give the mortgagor an opportunity of making his peace with his mortgagee. He had always been of opinion that this practice direction was limited to mortgages whereby the principal, as well as the interest, were repaid by the mortgagor by commuted weekly or quarterly sums, and whereby the mortgagee precluded himself, so long as those weekly or other periodical sums were punctually paid, from going into possession. That was the way most people occupied their houses nowadays. There was no default at the present moment. But that had nothing to do with the matter. The master held that the mortgagee was entitled to his order, but deferred the effect of it for two months; and the mortgagee did not greatly object to that. He proposed to treat that order, so far as delay in its execution was concerned, as being made with consent. There would be an order for possession within two months from to-day. Order accordingly.

APPEARANCES: *M. O'Connell Stranders* (*Bell & Ackroyd*); *Douglas Potter* (with him *Muir Hunter*) (*Ronald Fletcher & Co.*).

[Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law] [2 W.L.R. 931

WILL: LONG LEASEHOLDS: WHETHER PROPERTY HELD ON TRUST FOR SALE OR SETTLED LAND: RULE IN HOWE *v.* DARTMOUTH

In re Gough, deceased; Phillips *v.* Simpson and Others

Vaisey, J. 17th April, 1957

Adjourned summons.

A testator by his will dated 8th May, 1934, provided: "The residue of my estate real and personal whatsoever and wheresoever situate I leave to my . . . wife in trust for life. On the demise of my wife I bequeath to the aforesaid M. A. S. [his sister] or her issue the residue of my property real and personal, and after their demise to the St. Dunstan's Home for Blinded Soldiers." The residuary estate included a long leasehold which at the time of the testator's death in 1953 still had more than sixty-five years to run. His wife and sister died in 1954 and 1953 respectively, and the four persons entitled as issue of the sister included two infants. The question on the present summons was whether, in the events which had happened, the said leasehold property which formed a part of the residuary estate of the testator was now held (*a*) on trust for sale, or (*b*) on trust to vest the same in the first and second defendants as the persons for the time being constituting the tenant for life thereof for the purposes of the Settled Land Act, 1925.

VAISEY, J., said that on the construction of the will he inclined to the view that the testator intended the beneficiaries to enjoy his estate in specie, and that when he referred to "my property" he was thinking of his property as existing at the time of his death. Secondly, the rule in *Howe* v. *Lord Dartmouth* (1802), 7 Ves. 137, could no longer apply to leaseholds held for a term exceeding sixty years, they being now authorised investments under s. 73 (xi) of the Settled Land Act, 1925. Thirdly, in so far as the rule in *Howe* v. *Lord Dartmouth* was based on an implied intention of the testator, he could find no foundation for such an intention. It by no means followed that the purchase of a long leasehold investment would be proper in all cases of settlements, or in this case at the present time; but this was not, in his view, relevant to the present question as the property was part of the testator's residuary estate at his death. On the authorities this was settled land and no trust for sale could in the circumstances be implied. See *In re Nicholson* [1909] 2 Ch. 111, *In re Berton* [1939] Ch. 200 and *In re Brooker* [1926] W.N. 93. See also Jarman on Wills, 8th ed., p. 1225, and Theobald on Wills, 11th ed., p. 456. He would declare that in the events which had happened this leasehold property was not subject to any trust for sale but held on trust to vest the same in the two adult defendants as the persons for the time being constituting the tenant for life thereof for the purposes of the Settled Land Act, 1925. Declaration accordingly.

APPEARANCES: *D. H. Mervyn Davies* (*Chamberlain & Co.*, for *Beor, Wilson & Lloyd*, Swansea); *John Monckton* (*David Morris and Co.*, for *Cyril Goldstone & Co.*, Swansea); *E. I. Goulding* (*Ranger, Burton & Frost*).

[Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law] [2 W.L.R. 961

Queen's Bench Division

NEGLIGENCE: INJURY CAUSED BY FELLOW WORKMAN: LIABILITY OF EMPLOYERS

Hudson *v.* Ridge Manufacturing Co., Ltd.

Streatfeild, J. 14th March, 1957

Action.

For some four years one of the defendants' employees persisted in skylarking in the form of tripping up his fellow employees, including the plaintiff. He had been reprimanded by the foreman on frequent occasions and warned that he would hurt someone, but with no effect. No other steps were taken to check this conduct by dismissal or otherwise. On 26th March, 1954, the employee tripped up the plaintiff and injured him. The plaintiff claimed damages against the defendants on the ground that they had failed to maintain such discipline among their employees as would protect him from this kind of horseplay.

STREATFEILD, J., said that if the system of working was found, in practice, to be beset with dangers, it was the duty of the employers to evolve a reasonably safe system of working so as to obviate those dangers, and upon principle, if a fellow workman was not merely incompetent but, by his habitual conduct, was likely to prove a source of danger to his fellow employees, a duty lay fairly and squarely on the employers to remove that source of danger. Here was a case where there existed, in the system of work, a source of danger, through the conduct of one of the defendants' employees, of which they knew; repeated conduct which went on over a long space of time, and which they did nothing whatever to remove, except to reprimand and go on reprimanding to no effect. Therefore, the injury was sustained as a result of the defendants' failure to take proper steps to put an end to that conduct, to see that it would not happen again and, if it did happen again, to remove the source of it. It was for that reason that this injury resulted. Under those circumstances, although it was an unusual type of case, the defendants were liable for the plaintiff's injuries. Judgment for the plaintiff.

APPEARANCES: *C. T. B. Leigh* (*F. Edwin Monks & Co.*, Manchester); *W. D. T. Hodgson* (*James Chapman & Co.*, Manchester).

Reported by J. D. PENNINGTON, Esq., Barrister-at-Law] [2 W.L.R. 948

CRIMINAL LAW: FITNESS TO PLEAD: TO BE TRIED BEFORE GENERAL ISSUE

R. *v.* Beynon

Byrne, J. 3rd April, 1957

Trial on indictment.

At Cardiff Assizes the accused was charged on an indictment with murder. On his arraignment and before he pleaded, counsel for the Crown applied that the fitness of the accused to plead should be tried as a preliminary issue. Counsel for the defence submitted that it was not open to the Crown so to apply, and applied that the issue of fitness to plead should be postponed until after the trial of the general issue.

BYRNE, J., said that as he had always understood the law and seen it administered, if the court was aware of the fact that there was a preliminary issue whether the person who was charged before the court on an indictment was insane so that he was unfit to be tried, it was the duty of the court to see that that issue was tried, even though no application was made by the prosecution or by the defence. It appeared to him that the law had always been that an insane person could not be tried, and although it was with profound regret that he found himself in disagreement with Devlin, J., in *R.* v. *Roberts* [1954] 2 Q.B.D. 329, nevertheless the conclusion he had arrived at was that, upon his attention being drawn to the fact that there was a preliminary issue, that issue was one which the court was obliged to try. That was based on the fact, not only that there was provision for such procedure by the Criminal Lunatics Act, 1800, but that there was authority for that procedure going back as far as Hale. For those reasons the objection failed and a jury would be empanelled to try the preliminary issue.

APPEARANCES: *F. Elwyn Jones*, Q.C., and *Alun Davies* (*Director of Public Prosecutions*); *Norman Richards*, Q.C., and *Bruce Isaac* (*Andrew, Thompson & Partners*, Swansea).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law] [2 W.L.R. 956

LANDLORD AND TENANT: SECURITY OF TENURE: TENNIS CLUB

Addiscombe Garden Estates, Ltd., and Another *v.* Crabbe and Others

Hilbery, J. 11th April, 1957

Action.

The trustees of a tennis club registered under the Industrial and Provident Societies Act, 1893, which, by its rules, carried on the business of a lawn tennis club, entered into an agreement with the plaintiff company, owners of tennis courts and a tennis clubhouse situated in the grounds of an hotel, whereby the plaintiff company purported to license and authorise them to use and enjoy the premises for two years from 1st May, 1954, in consideration of monthly payments of "court fees." There were provisions in the agreement for the chairman of the plaintiff company to be a member of the club committee and for hotel residents to be honorary members of the club on payment of appropriate fees. It was also agreed, *inter alia*, that the trustees should maintain the premises in good and tenantable repair and deliver them up in such condition at the expiration of the licence; and that they should permit the plaintiff company and their agents to enter at all reasonable times to inspect the premises; the trustees during the licence quietly to enjoy the premises without interruption from the plaintiff company. The agreement expired on 1st May, 1956, but thereafter the trustees and members of the club continued to occupy and use the premises, asserting that the agreement granted them a tenancy which was protected by Pt. II of the Landlord and Tenant Act, 1954. The plaintiff company brought an action for injunctions to restrain the trustees from trespassing and ordering them to quit and yield up the premises.

HILBERY, J., having found that the agreement was a tenancy agreement and not a licence, said that the next point was whether the club carried on a "business" within Pt. II of the Act of 1954, so as to give the trustees security of tenure. His lordship was unable to avoid the conclusion that the words "and includes any activity carried on by a body of persons, whether corporate or unincorporate," in s. 23 (2) of the Act of 1954, were sufficient to cover the activity carried on by this body corporate, the tennis club. It was an "activity"; it was "carried on by a body corporate"; and it was an activity carried on by that body corporate on these premises. There was no justification for limiting the words "any activity" by inserting the word "such" between the words "any" and "activity" so as to make it read "any such activity." Therefore the plaintiffs' claim failed. Judgment for the defendants.

APPEARANCES: *Lionel Blundell* (*Summer & Co.*); *Charles Fletcher-Cooke* (*Currey & Co.*).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law] [2 W.L.R. 964

Probate, Divorce and Admiralty Division

DIVORCE: UNREASONABLE DELAY: HUSBAND WITHOUT KNOWLEDGE OF WIFE'S ADULTERY

Brown *v.* Lloyd and Lloyd

Karminski, J. 28th March, 1957

Undefended petition by husband on the ground of adultery.

A husband and wife separated by agreement in 1940, the wife going from London to Northampton to live. The husband subsequently made no inquiries as to the conduct of the wife—whose behaviour while the parties were living together had never been such as to give rise to any suspicion on the part of the husband that she was of an immoral disposition—until 1956 when he discovered that she had been living in adultery since 1947. He then filed a petition for divorce on the ground of the wife's adultery. The matter was adjourned for argument by the Queen's Proctor on the question of delay.

KARMINSKI, J., said that there had been a good many cases decided in these courts and in the ecclesiastical courts when the whole question of delay has been considered; but there was no reported case in the courts where unreasonable delay had been found unless actual knowledge by the complaining party had been proved. The industry of counsel for the Queen's Proctor had, however, discovered a decision in the Court of New Brunswick, *Drost* v. *Drost and Hanson* [1942] 1 D.L.R. 72. That case was an important one because, so far as the industry of counsel had discovered, it was the only one where the court had said that a petitioner was under a duty to make inquiries and might be guilty of delay if he failed to do so. The Queen's Proctor submitted that that was a correct decision, and that, in the present case, there was unreasonable delay because the husband took no steps to find out where or how the wife was living. There were certain similarities obviously between that case and the present one. In both cases there was no step taken by the husband to ascertain what his wife was doing, although in *Drost* v. *Drost and Hanson* the period was considerably shorter than in the present case. In both cases there was no great distance separating the husband and the wife. In the present case the wife was living in Northampton and the husband in London, and it was not a case where she had disappeared to some remote foreign country. Counsel for the wife had relied on *Brougham* v. *Brougham* [1895] P. 288, in which, on an issue as to unreasonable delay, Sir Francis Jeune, P., had put the question to the jury "Did the petitioner know or have reason to believe that the respondent had committed adultery?" and that he his lordship) believed to be the real test in these cases. He did not think that the husband had any reason to believe that the wife had so committed adultery, bearing in mind that she had not been in the past a woman of promiscuous or immoral disposition. He, therefore, proposed to follow the test laid down by Sir Francis Jeune, P., in *Brougham* v. *Brougham*, although the facts of that case were widely different from the present. He did not propose to follow the test which Baxter, C.J., in *Drost* v. *Drost and Hanson*, seemed to have applied. There was in a case such as the present no duty on a husband to make inquiries after a separation as to a wife's conduct unless he had at least some reasonable ground based on her past conduct or some rumours which may have reached him to make those inquiries. There had, therefore, been no unreasonable delay on the part of the husband. Decree *nisi*.

APPEARANCES: *P. G. Mason* (*Montagu's, Cox & Cardale*); *Brian Neill* (*Queen's Proctor*).

[Reported by Miss ELAINE JONES, Barrister-at-Law] [2 W.L.R. 951

ADMIRALTY: JURISDICTION: ACTION IN REM

The *St. Elefterio*

Willmer, J. 17th April, 1957

Motion.

The plaintiffs bought a cargo of cattle cake, shipped on board the defendants' vessel *St. Elefterio*, from sellers who were the charterers of the vessel and the shippers of the cargo. The bills of lading were endorsed in blank by the shippers and presented to the plaintiffs. Subsequently the plaintiffs resold the cargo and presented the bills of lading to their purchasers, who claimed the right to reject the goods on the ground that the bills of lading were antedated. The plaintiffs commenced an action *in rem* against the owners of the *St. Elefterio* and arrested that vessel. The defendants moved for an order that the writ of summons and warrant for arrest be set aside on the ground that the court had no jurisdiction to entertain an action *in rem* against the defendants' vessel.

WILLMER, J., said that it was argued first, that s. 1 (1) (*h*) of the Administration of Justice Act, 1956, was by its terms narrower than the corresponding provision contained in s. 22 of the Judicature Act, 1925, because, whereas that Act made specific provision for jurisdiction in tort in respect of goods carried, the paragraph in the new Act made no corresponding provision. In his lordship's judgment, the words of s. 1 (1) (*h*) were wide enough to cover claims whether in contract or in tort arising out of any agreement relating to the carriage of goods in a ship. The main argument for the defendants turned on the construction of s. 3 (4) of the Act of 1956. It was argued that, on the true construction of that subsection, before the plaintiffs could proceed *in rem* in respect, for instance, of a claim under s. 1 (1) (*h*), they must show that the owners of the ship proceeded against were persons who would be liable on the claim in an action *in personam*. The defendants' argument was founded on the proposition that s. 3 (4) introduced a new restriction on the right to proceed *in rem*, and that a plaintiff could not arrest a ship under that subsection unless he could prove at the outset that he had a cause of action sustainable in law. That proposition rested on a misconception of the purpose and meaning of s. 3 (4). That subsection, so far from being a restrictive provision, was introduced to enlarge the Admiralty jurisdiction

of the court. Its purpose was to confer for the first time in England the right to arrest either the ship in respect of which the cause of action was alleged to have arisen or any other ship in the same ownership. That was an entirely new right so far as the law of England was concerned, although it previously existed in other countries, including Scotland; and the reason for conferring that right now was to bring this country into line with other countries as a result of an international convention. The purpose of the words "the person who would be liable on the claim in an action *in personam*" was to identify the person or persons whose ship or ships might be arrested in relation to this new right of arresting a sister ship. Bearing in mind the purpose of the Act, the natural construction of those words was, the person who would be liable on the assumption that the action succeeded. This action might or might not succeed if it were brought *in personam*; but clearly, if the action did succeed, the person or persons who would be liable would be the owner or owners of the steamship *St. Elefterio*. In such circumstances, in the absence of any suggestion that the action was frivolous or vexatious, the plaintiffs were entitled to bring it and to have it tried, and whether or not their claim turned out to be a good one, they were entitled to assert that claim by proceeding *in rem*. The motion was misconceived. Judgment for the plaintiffs. Leave to appeal to the Court of Appeal.

APPEARANCES: *A. W. Roskill*, Q.C., and *M. J. Mustill* (*Richards, Butler & Co.*); *T. G. Roche*, Q.C., and *H. V. Brandon* (*Holman, Fenwick & Willan*, for *Weightman, Pedder & Co.*, Liverpool).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law] **[2 W.L.R. 935**

"THE SOLICITORS' JOURNAL," 16th MAY, 1857

ON the 16th May, 1857, THE SOLICITORS' JOURNAL forecast the introduction into Parliament of a measure to establish a Department of Justice: "We are enabled to state, upon what we believe to be reliable authority, that a measure to establish such new department will shortly be submitted to Parliament . . . and that its main features will be as follows: The Lord Chancellor for the time being will be *ex officio* the Minister or recognised head of the new department of justice and will preside in a Committee of the Privy Council to be composed of the Lord President of the Council and other members including the Law Lords and ex-judges, probably the majority of those at present constituting the legal committee. To this committee . . . will be entrusted the supervision of the civil and criminal jurisprudence of the country and generally its administration by existing tribunals. In addition there will be two Under-Secretaries of State belonging to the department—one charged with the superintendence of civil, and the other of criminal, justice. These officials will be assisted by a competent legal staff, whose time will be exclusively devoted to the business of their respective branches. They will have to collect and arrange judicial statistics, and to revise, under the control of the Committee, current legislation. . . . It will be their duty also to point out errors or defects in the administration of the law and suggest appropriate remedies. . . . It is also intended that the Committee shall sit as a court of appeal to hear and decide criminal cases on questions of fact. . . . The effect would be to substitute judicial investigation for the frequently loose and uncertain . . . system now existing which . . . confers on the Home Secretary exclusive jurisdiction in questions affecting life and death and imposes upon him a duty which it must be most difficult and painful for him to discharge."

IN WESTMINSTER AND WHITEHALL

HOUSE OF LORDS

PROGRESS OF BILLS

Read First Time :—

Dartford Tunnel Bill [H.C.] [8th May.
Export Guarantees Bill [H.C.] [7th May.
House of Commons Members' Fund Bill [H.C.] [7th May.
Tyne Improvement Bill [H.L.] [8th May.

Read Second Time :—

Tamar Bridge Bill [H.C.] [9th May.

Read Third Time :—

Barclays Bank D.C.O. Bill [H.C.] [8th May.
Cattedown Wharves Bill [H.C.] [8th May.

In Committee :—

Shops Bill [H.L.] [7th May.

HOUSE OF COMMONS

A. PROGRESS OF BILLS

Read First Time :—

Ministry of Housing and Local Government Provisional Order (County of Berks (Consent to Letting)) Bill [H.C.] [10th May.

To confirm a Provisional Order of the Minister of Housing and Local Government relating to certain land in the County of Berks.

Read Second Time :—

Finance Bill [H.C.] [7th May.
National Assistance Act, 1948 (Amendment) Bill [H.C.] [10th May.
National Health Service Contributions Bill [H.C.] [8th May.

Read Third Time :—

Maintenance Agreements Bill [H.C.] [10th May.

In Committee :—

Cheques (No. 2) Bill [H.C.] [10th May.

B. QUESTIONS

AGRICULTURAL HOLDINGS ACT, 1948 (NOTICE TO QUIT)

Mr. GODBER gave the following information regarding the operation of ss. 24 and 25 of the Agricultural Holdings Act, 1948 :—

AGRICULTURAL HOLDINGS ACT, 1948—SECTIONS 24-25
NOTICES TO QUIT

(1) Years beginning 1st March	(2) Minister's consent given	(3) Appeals against Minister's consent heard(*a*)	(4) Appeals against Minister's consent allowed(*a*)	(5) Minister's consent refused	(6) Appeals against Minister's refusal heard(*a*)	(7) Appeals against Minister's refusal allowed(*a*)
1948 ..	398	643(*b*)	198(*c*)	632	See Columns (3) and (4)	
1949 ..	430			762		
1950 ..	358	156	64	675	209	44
1951 ..	322	134	51	549	185	36
1952 ..	314	119	47	473	170	26
1953 ..	240	96	40	364	131	28
1954 ..	119	50	25	205	73	16
1955 ..	135	32	15	238	53	6
1956 ..	44(*d*)	31	9	125(*d*)	42	9

(*a*) Figures are for decided cases only and are shown in the year in which the decision was notified to the Ministry, which may not be the year in which the appeal was lodged.
(*b*) Number of appeals against both consents and refusals heard in the period 1st March, 1948, to 28th February, 1950.
(*c*) Number of appeals against both consents and refusals allowed in the period 1st March, 1948, to 28th February, 1950.
(*d*) Six months only—1st March, 1956, to 31st August, 1956.

[6th May.

FINES (VALUE)

The HOME SECRETARY said that the question whether small fines fixed by statute, particularly those fixed some years ago, should be increased was one to which he was giving his attention.

[9th May.

STATUTORY INSTRUMENTS

Clean Air Council Order, 1957. (S.I. 1957 No. 766.) 5d.
County of Middlesex (Electoral Divisions) Order, 1957. (S.I. 1957 No. 755.) 5d.
Education Authorities (Scotland) Grant (Amendment No. 7) Provisional Regulations, 1957. (S.I. 1957 No. 783 (S.41).) 5d.
Hereford Rural District Water Order, 1957. (S.I. 1957 No. 747.)
Hexham Urban District Water Order, 1957. (S.I. 1957 No. 728.) 5d.
Live Poultry (Restrictions) Order, 1957. (S.I. 1957 No. 787.) 6d.
Liverpool-Leeds-Hull Trunk Road (North Ferriby By-Pass) Order, 1957. (S.I. 1957 No. 744.) 5d.
London-Carlisle-Glasgow-Inverness Trunk Road (Auchendennan and Other Diversions) (Loch Lomond) Order, 1957. (S.I. 1957 No. 773 (S.39).) 5d.
London Traffic (Prohibition of Waiting) (Brasted, Kent) Regulations, 1957. (S.I. 1957 No. 781.) 5d.
London Traffic (Prohibition of Waiting) (Woking) Regulations, 1957. (S.I. 1957 No. 782.) 5d.
Pharmaceutical Society (Statutory Committee) Order of Council, 1957. (S.I. 1957 No. 754.) 7d.
Police (Scotland) Amendment (No. 2) Regulations, 1957. (S.I. 1957 No. 742 (S.37).) 5d.
Pontypool and District Water Order, 1957. (S.I. 1957 No. 764.) 5d.
Representation of the People (Scotland) Regulations, 1957. (S.I. 1957 No. 777 (S.40).) 6d.
Special Constables (Pensions) Order, 1957. (S.I. 1957 No. 750.) 6d.
Special Constables (Pensions) (Scotland) Regulations, 1957. (S.I. 1957 No. 743 (S.38).) 6d.
Stopping up of Highways (City and County Borough of Nottingham) (No. 1) Order, 1957. (S.I. 1957 No. 756.) 5d.
Stopping up of Highways (County of Gloucester) (No. 8) Order, 1957. (S.I. 1957 No. 759.) 5d.
Stopping up of Highways (County of Kent) (No. 8) Order, 1957. (S.I. 1957 No. 745.) 5d.
Stopping up of Highways (County of Nottingham) (No. 6) Order, 1957. (S.I. 1957 No. 768.) 5d.
Stopping up of Highways (Leicestershire) (No. 4) Order, 1957. (S.I. 1957 No. 757.) 5d.
Stopping up of Highways (Newport) (No. 1) Order, 1957. (S.I. 1957 No. 758.) 5d.
Telegraph (British Commonwealth and Foreign Written Press Telegram) Regulations, 1957. (S.I. 1957 No. 767.) 6d.
Wages Regulation (Brush and Broom) (Amendment) Order, 1957. (S.I. 1957 No. 762.) 6d.
Wages Regulation (Brush and Broom) (Holidays) Order, 1957. (S.I. 1957 No. 763.) 7d.
Wages Regulation (Retail Bread and Flour Confectionery) (England and Wales) (Amendment) Order, 1957. (S.I. 1957 No. 774.) 6d.
Wages Regulations (Retail Drapery, Outfitting and Footwear) Order, 1957. (S.I. 1957 No. 738.) 1s.
Wages Regulation (Retail Furnishing and Allied Trades) (Amendment) Order, 1957. (S.I. 1957 No. 775.) 5d.
Wages Regulation (Road Haulage) Order, 1957. (S.I. 1957 No. 749.) 1s. 5d.

[Any of the above may be obtained from the Government Sales Department, The Solicitors' Law Stationery Society, Ltd., 21 Red Lion Street, London, W.C.1. The price in each case, unless otherwise stated, is 4d., post free.]

NOTES AND NEWS

Honours and Appointments

A knighthood has been conferred on Mr. Justice SALMON on his appointment as a judge of the High Court.

Mr. W. A. BAGNALL has been appointed second junior counsel to the Registrar of Restrictive Trading Agreements.

Mr. W. A. H. DUFFUS, Chief Registrar, Federal Supreme Court, Nigeria, has been appointed a Judge of the High Court, Western Region, Nigeria.

Mr. J. C. MATHEW has been appointed prosecuting counsel for the Crown at the Middlesex Sessions in succession to Mr. F. H. Lawton, Q.C.

Mr. PHILLIP WILLIAM NUNN has been appointed assistant Official Receiver for the Bankruptcy District of the County Courts of Canterbury, Rochester and Maidstone.

Mr. KENNETH BRIAN STOTT, senior assistant solicitor, Tottenham, has been appointed to a similar post at West Ham in succession to Mr. FRANK HERBERT WILSON, who has been appointed senior assistant solicitor at Birmingham.

The Colonial Office announces the following appointments and promotions in the Colonial Legal Service: Mr. J. O. BALLARD, Crown Counsel, Tanganyika, to be Crown Counsel, Cyprus; Mr. R. MACKAY, Deputy Registrar of the High Court, Tanganyika, to be Registrar of the High Court, Tanganyika, and Mr. H. C. WHEATLEY, Senior Assessor, Fiji, to be Senior Assistant Registrar-General, Fiji.

Personal Notes

Mr. Henry Gerald Blenkinsop, solicitor, of Warwick, was married on 4th May, at Leamington, to Miss Tessa Susan Edmondson, of Leamington.

Mr. Michael John Asson Hill, solicitor, of Birmingham, was married on 8th May, at Great Barr, to Miss Carolann Horobin, of Great Barr.

Mr. Paul Crowther Lavington, solicitor, of Bristol, was married on 30th April, at Stoke Bishop, to Miss Betty Chesham, of Stoke Bishop.

Mr. John Stallard, solicitor to the Worcester Building Society, will celebrate his 100th birthday on 31st May.

Mr. Thomas Smith Starkie, solicitor, of Derby, and Mrs. Starkie, have recently celebrated their golden wedding anniversary.

Miscellaneous

CHANGE OF ADDRESS OF INSURANCE AND COMPANIES DEPARTMENT

The Insurance and Companies Department of the Board of Trade has moved from Lacon House, Theobalds Road, London, W.C.1, to Horse Guards Avenue, Whitehall, London, S.W.1 (Telephone: TRAfalgar 8855). The Bankruptcy Department Headquarters and Companies Inspection and Liquidation Branch remains at Lacon House.

THE RESTRICTIVE PRACTICES COURT

The following have been appointed members of the Restrictive Practices Court: Mr. William Gordon Campbell, F.C.A., Sir Andrew Clow, K.C.S.I., C.I.E., Sir Stanford Cooper, F.C.A., Sir Bernard Gilbert, G.C.B., K.B.E., Mr. W. L. Heywood, O.B.E., Sir Godfrey Way Mitchell, Mr. G. H. E. Parr, C.B., C.B.E., and Mr. William Wallace, C.B.E.

Mr. Campbell, Sir Stanford Cooper, Sir Bernard Gilbert, Mr. Heywood and Mr. Wallace will become whole-time members of the Restrictive Practices Court, but they will not be required to take up their appointments until later in the year. Sir Andrew Clow, Sir Godfrey Mitchell and Mr. Parr will be part-time members of the Court.

The Lord Chancellor has nominated Mr. Justice Pearson to be a Judge of the Restrictive Practices Court in addition to Mr. Justice Devlin, President of the Court, Lord Hill Watson, Mr. Justice Upjohn and Mr. Justice McVeigh. Mr. Registrar Bowyer has been appointed clerk of the Court and his address is The Restrictive Practices Court, The Royal Courts of Justice, Strand, W.C.2.

The two winning companies of the 1957 Annual Awards of *The Accountant* are the United Steel Companies, Ltd., and Trawlers Grimsby, Ltd. The awards will be presented by the Lord Mayor, Sir Cullum Welch, in June.

THE SOLICITORS ACTS, 1932 TO 1956

On 25th April, 1957, an order was made by the Disciplinary Committee constituted under the Solicitors Acts, 1932 to 1956, that there be imposed upon PHILIP CHARLES WILLIAMS, of No. 29 Fold Street, Bolton, and No. 8 Acresfield, Bolton, a penalty of £25 to be forfeited to Her Majesty, and that he do pay to the complainant his costs of and incidental to the application and inquiry.

DEVELOPMENT PLANS

NORTHAMPTON COUNTY BOROUGH DEVELOPMENT PLAN

On 30th April, 1957, the Minister of Housing and Local Government approved (with modifications) the above development plan. A certified copy of the plan as approved by the Minister has been deposited at the Guildhall, Northampton. The copy of the plan so deposited will be open for inspection, free of charge, by all persons interested between 9 a.m. to 1 p.m. and 2 p.m. to 5 p.m. on Mondays to Fridays, inclusive, and 9 a.m. to 12 noon on Saturdays. The plan became operative as from 7th May, 1957, but if any person aggrieved by the plan desires to question the validity thereof or of any provision contained therein on the ground that it is not within the powers of the Town and Country Planning Act, 1947, or on the ground that any requirement of the Act or any regulation made thereunder has not been complied with in relation to the approval of the plan, he may, within six weeks from 7th May, 1957, make application to the High Court.

OXFORDSHIRE DEVELOPMENT PLAN

On 17th April, 1957, the Minister of Housing and Local Government amended the above development plan to provide for the designation as subject to compulsory acquisition of 4.05 acres of land on the east side of Mill Lane, in the parish of Marston, within the Bullingdon Rural District, for use as a residential caravan site. A certified copy of the plan as amended by the Minister has been deposited at the offices of the clerk of the County Council in the County Hall, Oxford, and certified extracts of the plan as amended so far as the amendment relates to the under-mentioned district have also been deposited at the place mentioned below. Bullingdon Rural District—Offices of the Clerk of the Bullingdon Rural District Council, Arlington House, 76 Banbury Road, Oxford. The copy or extracts of the plan so deposited will be open for inspection free of charge by all persons interested between the hours of 9.30 a.m. and 5 p.m. on every weekday, except Saturday, when they may be inspected between the hours of 9.30 a.m. and 12 noon. The amendment became operative as from 7th May, 1957, but if any person aggrieved by it desires to question the validity thereof or of any provision contained therein on the ground that it is not within the powers of the Town and Country Planning Act, 1947, or on the ground that any requirement of the Act or any regulation made thereunder has not been complied with in relation to the making of the amendment, he may, within six weeks from 7th May, 1957, make application to the High Court.

COUNTY BOROUGH OF TYNEMOUTH DEVELOPMENT PLAN, 1950

Proposals for alterations or additions to the above development plan which were on 25th February, 1957, submitted to the Minister of Housing and Local Government, have now been withdrawn and re-submitted with the inclusion of an additional paragraph. This paragraph states that the development envisaged by the proposals for alterations or additions to the above plan is, with one exception, expected to be undertaken and substantially completed by 29th November, 1970. The exception relates to the proposal to zone an area of approximately 72 acres to the west of Preston North Road and north of the Coast Road for residential purposes. It is expected that this development will be undertaken and substantially completed in the twenty to forty year period of the plan. The proposals relate to land situate within the County Borough of Tynemouth. A certified copy of the proposals as re-submitted has been deposited for public inspection at the offices of the Borough Surveyor of the above Council, at No. 16 Northumberland Square, North Shields, in the said County Borough, and is available for inspection, free of charge, by all persons interested at the Planning Department of the above-mentioned office between the hours of 9 a.m. and 5 p.m. on the usual weekdays and between the hours of 9 a.m. and 12 noon on Saturdays. Any objection or representation with reference to the proposals may be sent in writing to the Secretary, the Ministry of Housing and Local Government, Whitehall, London, S.W.1, before 25th June, 1957, and any such objection or representation should state the grounds on which it is made. Persons making any objection or representation may register their names and addresses with the said Council and will then be entitled to receive notice of any amendment of the plan made as a result of the proposals. The Minister has intimated that objections or representations which may have been made to him in respect of the submission of 25th February, 1957, need not be repeated and that he will treat them as having been made to the proposals for alterations or additions advertised in this notice.

ADMINISTRATIVE COUNTY OF LONDON DEVELOPMENT PLAN

On 28th March, 1957, the Minister of Housing and Local Government amended the above development plan. A certified copy of the plan as amended by the Minister has been deposited at The County Hall, Westminster Bridge, S.E.1 (Room 311A), and certified copies of the plan as amended or certified extracts thereof so far as the amendment relates to the undermentioned district have also been deposited at the place mentioned below :—

District : Metropolitan Borough of Southwark (land in the area St. George's Road—Garden Row—Burman Street).

Place : Southwark Town Hall, Walworth Road, S.E.17.

The copies or extracts of the plan so deposited will be open for inspection free of charge by all persons interested between the hours of 10 a.m. and 4 p.m. Monday to Friday, 10 a.m. and 12 noon Saturday. The amendment became operative as from 18th April, 1957, but if any person aggrieved by it desires to question the validity thereof or of any provision contained therein on the ground that it is not within the powers of the Town and Country Planning Act, 1947, or on the ground that any requirement of the Act or any regulation made thereunder has not been complied with in relation to the making of the amendment, he may, within six weeks from 18th April, 1957, make application to the High Court.

ADMINISTRATIVE COUNTY OF LONDON DEVELOPMENT PLAN

Proposals for alterations or additions to the above development plan were on 18th April, 1957, submitted to the Minister of Housing and Local Government. The proposals relate to land situate within the city of London (St. Paul's Cathedral Precinct). A certified copy of the proposals as submitted has been deposited for public inspection at The County Hall, Westminster Bridge, S.E.1 (Room 311A). A certified copy of the proposals has also been deposited for public inspection at the City of London Town Clerk's Office, 55–61 Moorgate, E.C.2. The copies of the proposals so deposited, together with copies or relevant extracts of the plan, are available for inspection free of charge by all persons interested at the places mentioned above between the hours of 10 a.m. and 4 p.m. Monday to Friday, 10 a.m. and 12 noon Saturday. Any objection or representation with reference to the proposals may be sent in writing to the Secretary, Ministry of Housing and Local Government at Whitehall, London, S.W.1, before 11th June, 1957, and any such objection or representation should state the grounds on which it is made. Persons making an objection or representation may register their names and addresses with the London County Council (reference LP/O 1) and will then be entitled to receive notice of any amendment of the plan made as a result of the proposals.

GRAY'S INN

On 7th May, being the Grand Day of Easter Term, 1957, the treasurer, Mr. Sydney E. Pocock, O.B.E., and the Masters of the Bench, entertained to dinner in Hall the following guests: The Right Hon. The Viscount Monckton of Brenchley, K.C.M.G., K.C.V.O., M.C., Q.C., the Treasurer of the Honourable Society of the Inner Temple (The Right Hon. The Lord Somervell of Harrow, O.B.E.), the President of The Law Society (Sir Edwin Herbert, K.B.E.), the Chairman of the Trades Union Congress (Sir Thomas Williamson, C.B.E., J.P.), the President of the Royal College of Surgeons (Sir Harry Platt), his worship the Mayor of Holborn (Mr. Gerald Reed, J.P.), and Mr. Dudley Pocock. The Benchers present in addition to the Treasurer were: The Right Hon. The Lord High Chancellor, The Hon. Mr. Justice Hilbery, Mr. N. L. C. Macaskie, Q.C., Lord McNair, C.B.E., Q.C., Sir Arthur Comyns Carr, Q.C., The Hon. Mr. Justice McNair, The Right Hon. Lord Justice Sellers, M.C., Sir John Forster, K.B.E., Q.C., Mr. Henry Salt, Q.C., Mr. Michael Rowe, C.B.E., Q.C., The Hon. Mr. Justice Devlin, The Right Hon. The Lord Reid, LL.D., F.R.S.E., Sir Denis Gerrard, Mr. George Pollock, Q.C., The Right Hon. Sir Lionel Leach, Q.C., Mr James Mould, Q.C., Mr. A. P. Marshall, Q.C., Mr. R. C. Vaughan, O.B.E., M.C., Q.C., Mr. G. W. Tookey, Q.C., Mr. Dingle Foot, Q.C., Mr. J. Ramsay Willis, Q.C., Mr. David Karmel, Q.C., Mr. Christopher Shawcross, Q.C., Mr. R. E. Borneman, Q.C., Mr. Roy M. Wilson, Q.C., Mr. H. E. Francis, with the Preacher (the Rev. Canon F. H. B. Ottley, M.A.) and the Under-Treasurer (Mr. O. Terry).

At the March, 1957, examination for Honours of candidates for admission on the Roll of Solicitors of the Supreme Court, the Examination Committee recommended the following as being entitled to Honorary Distinction:—

First Class (in order of merit): 1. R. G. W. Birkinshaw, LL.B. London. 2. J. McGlashan, LL.B. Liverpool. Second class (in alphabetical order): C. N. Arnold, C. J. Berry, LL.B. London, A. I. Bottomley, R. H. V. Dixon, B.A. Cantab., N. H. Gatward, B. A. Greenwood, LL.B. London, P. J. Hodgson, G. J. B. Hutchings, R. J. Kelly, B.A. Oxon, LL.B. London, R. C. Morgan, LL.B. Wales, W. J. M. White. Third Class (in alphabetical order): J. S. Bell, B.A. Cantab., W. H. Blackburn, LL.B. Liverpool, M. Bryant, R. W. Burley, S. E. M. Currie, S. F. Gambrill, H. W. Garrood, B.A. Cantab., W. H. Jenkins, P. Marchmont, LL.B. London, J. Middlehurst, K. F. Murray, J. H. T. Rees, M.A. Cantab., B. H. Taylor, LL.B. Manchester, J. J. Walker, D. L. Watkins, B.A. Cantab., and L. J. Watmore, B.A. Oxon.

The Council of The Law Society have accordingly given Class Certificates and awarded the following prizes: To *Mr. Birkinshaw* —The Clement's Inn Prize—value £48. To *Mr. McGlashan*— The Daniel Reardon Prize—value £24. The Council have given Class Certificates to the candidates in the Second and Third Classes.

Seventy-seven candidates gave notice for examination.

At The Law Society's Intermediate Examination on 21st and 22nd March there were three candidates for the whole examination, of whom one passed both parts and two passed the law portion only. Of 249 candidates for the law portion only, 153 passed, of whom nine were placed in the first class. Of 521 candidates for the trust accounts and book-keeping portion only, 276 passed, five of these with distinction.

Wills and Bequests

Mr. Alfred Stanley Bright, solicitor, of Nottingham, left £164,116 (£163,879 net).

Mr. Edward Morris Gibson, solicitor, of Cheam, Surrey, left £81,818 (£78,489 net).

Alderman William Ernest Hamlin, solicitor, of New Square, Lincoln's Inn, W.C.2, left £67,458 (£48,862 net).

Mr. Charles B. Hepworth, retired solicitor, of Worthing, formerly of Surbiton, left £13,480 net.

SOCIETIES

At the 138th annual general meeting of the BIRMINGHAM LAW SOCIETY, held on 27th March, the following officers were elected for the ensuing year: president, Mr. Geoffrey M. King; vice-president, Mr. G. M. Butts; joint hon. secretaries and treasurers, Mr. Harold F. Rogers and Mr. David C. Stevens.

The sixty-ninth annual general meeting of the MONMOUTHSHIRE INCORPORATED LAW SOCIETY was held at the Law Library, Law Courts, Newport, on 26th April, when the annual report of the council was presented.

The following officers were elected for the ensuing year: Mr. J. Owen Davies, president, Mr. David J. Treasure and Mr. Norman C. Moses, vice-presidents, Mr. Vernon Lawrence, ex-president, Mr. J. Kenneth Wood, treasurer, Mr. J. B. Rogers hon. libraran, and Mr. W. Pitt Lewis, hon. secretary. The following were elected members of the council: Messrs. Vivian O. Adey, R. Collis Bishop, E. Glyn Evans, H. Everett, R. H. B. Francis, Roy M. Harmston, G. Roy Jenkins and A. Meyrick Williams.

The annual provincial meeting of the LOCAL GOVERNMENT LEGAL SOCIETY was held on 6th April at Bradford. Some sixty members were welcomed at the town hall by the Lord Mayor of Bradford, Alderman H. R. Walker, J.P., and they then listened to a most interesting address on "Court Work" by Mr. Ralph Cleworth, Q.C., stipendiary magistrate of Leeds, who spoke from a wealth of experience at the Bar and on the Bench. The members at the luncheon were the guests of the Lord Mayor and corporation of Bradford, and other guests included the town clerk, Mr. W. H. Leathem, three senior city magistrates, Mr. Eric Morley, Mr. Gilbert Holdsworth and Mr. Harry Woodhead, O.B.E., Alderman David Black, M.B., Ch.B., president of the Bradford Incorporated Law Society, Mr. Stanley Ackroyd, and the clerk to the city magistrates, Mr. Frank Owens. The Lord Mayor proposed the toast of the society, to which the chairman, Mr. F. Dixon Ward, responded; Mr. Morley replied to the toast of the guests, which was proposed by Mr. R. N. D. Hamilton. A meeting of the North Eastern branch took place in the afternoon, at which Mr. S. M. Wontner-Smith, chief assistant solicitor, Town Hall, Bradford, was elected hon. secretary of the branch.

The sixty-fourth annual general meeting of the SOLICITORS' MANAGING CLERKS' ASSOCIATION was held on 7th May, when Mr. Harold John Elliott, the president, delivered his presidential address. He referred to the work of the council during the year 1956 and mentioned particularly the further efforts to obtain professional status for managing clerks and their possible future outcome, and the pension scheme which was under active consideration. Mr. L. W. Chapman, the hon. treasurer, presented the report of the council and the accounts for the year 1956, which were adopted after a few questions thereon had been dealt with.

Mr. John William George Ellis was elected president for the year 1957–58, and in responding said it was a very great honour to be president, the dignity of which office he would endeavour to uphold. The retiring president, Mr. Harold John Elliott, was elected a vice-president of the association. After Messrs. Peat, Marwick, Mitchell & Co. had been re-elected as honorary auditors, Mr. Elliott invested Mr. Ellis with the insignia of the presidential office.

"THE SOLICITORS' JOURNAL"

Editorial, Publishing and Advertising Offices: 21 Red Lion Street, London, W.C.1. Telephone: CHAncery 6855.

Annual Subscription: Inland £4 10s., Overseas £5 (payable yearly, half-yearly or quarterly in advance).

Advertisements must be received first post Wednesday.

Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).